

23 March 2011

Mr A de Pol MRTPI
De Pol Associates Ltd
44 Garstang Road
Preston
PR1 1NA

Our Ref: APP/M2325/A/10/2127459
Your ref: 1028

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY METACRE LTD
SITE AT LAND NORTH OF MOWBRECK LANE, WESHAM PR4 3HA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Michael Ellison MA (Oxon), who held a public local inquiry between 14 and 22 September 2010 into your clients' appeal against the decision of Fylde Borough Council ("the Council") to refuse outline planning permission for the demolition of existing dwellings and redevelopment of the site for up to 264 dwellings together with associated development, open space, landscaping and development relating to biodiversity enhancement/protection in accordance with application ref: 08/1072.
2. The appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, on 10 September 2010 because it involves proposals for residential development of more than 150 dwellings which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and with his recommendation to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Inspector refers (IR1.8) to the production of additional documents for consideration at the inquiry. The Secretary of State notes that no objection was raised by the Council or any other party to the consideration of these additional

documents (IR1.9). He is therefore satisfied that no party's interests have thereby been prejudiced and so has taken this additional material into account.

Matters arising after the close of the Inquiry

5. During, and following the close of, the Inquiry but prior to 10 November 2010 (see next paragraph), the Secretary of State received four representations about the application scheme which are listed at Annex A1. The Secretary of State has given very careful consideration to all the issues raised in this correspondence, and has taken them into account. However, he is satisfied that this correspondence raised no new issues and that there was therefore no need for him to refer back to parties for further representations on those matters prior to reaching his decision.
6. The decision of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council [2010] EWHC 2886 (Admin)* resulted in the reinstatement of Regional Strategies (RSs), including the reinstatement of the Regional Spatial Strategy for the North West (RSS) as part of the development plan for the area. The Secretary of State therefore consulted the parties on 18 November 2010 on whether this would have any implications for the way in which the appeal should be determined, and the responses received were then circulated to the parties on 6 January 2011 for final comments. The Secretary of State has taken account of all the responses received, and these are listed at Annex A2. Copies of all the correspondence listed at Annexes A1 and A2 can be made available on request to the address at the foot of the first page of this letter.
7. The Secretary of State has also made it clear, following the judgment on 10 November 2010, that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government [2011] EWHC 97 (Admin)* which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration. However, while the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.

Policy considerations

8. In determining this application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the RSS (see paragraph 6 above), which was published on 30 September 2008, and the saved policies of the Fylde Borough Local Plan (2005) (FBLP).
9. Other material considerations which the Secretary of State has taken into account include: *The Planning System: General Principles*; Planning Policy Statement (PPS) 1: *Delivering Sustainable Development* and associated supplementary PPS: *Planning and Climate Change*; PPS3: *Housing*; PPS7:

Sustainable Development in Rural Areas; PPS9: *Biodiversity*; Planning Policy Guidance (PPG)13: *Transport*; Circular 11/95: *Planning Conditions*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy Regulations (CIL) which came into force on 6 April 2010.

Main issues

The development plan

10. For the reasons set out at IR11.7-11.17, the Secretary of State agrees with the Inspector at IR11.18 and 11.92 that the appeal development would not accord with saved policies SP1, SP2, HL2 and EP22 of the FBLP, and so it would not be in overall accordance with the development plan for the area. Against that, and despite his stated intention to revoke RSs (see paragraph 7 above), the RSS still forms a part of the development plan, and so he has given limited weight to the requirement therein for Fylde to provide 306 new houses per year (IR6.13). The Secretary of State accepts that the appeal proposal would undoubtedly help to meet that requirement, but he also agrees with the Inspector (IR11.37) that there are significant change factors which justify giving only limited weight now to the evidence base which informed the RSS. However, the Secretary of State agrees with the Inspector (IR11.38) that the status of the Council's ensuing Interim Housing Policy documents reduces the weight that can be given to them.

Consistency with Government policy

The Planning System: General Principles; PPS1 and PPS3

11. For the reasons given at IR 11.20-11.11.33, the Secretary of State agrees with the Inspector (IR11.34 and 11.93) that the Council is not able to demonstrate the up-to-date supply of deliverable housing sites required to comply with PPS1 and that, as required by paragraph 71 of PPS3, housing applications should therefore be considered favourably so long as there is no other objection. Like the Inspector, the Secretary of State considers that, while the decision to review the housing target for the area may provide a reason why the Council has no target at the moment (IR11.34), it does not avoid the PPS3 requirement to demonstrate a five-year supply. The Secretary of State considers this failure to comply with national policy to be a material consideration in favour of the appeal development to be weighed in the overall planning balance.
12. The Secretary of State also agrees with the Inspector at IR11.39 that the need for affordable housing in the area is substantial and, having regard to the PPS3 requirement for authorities to identify an adequate level of affordable housing, the offer of 79 such units in the appeal scheme is a further point in its favour.
13. The Inspector points out (IR11.46) that both *The Planning System: General Principles* and paragraph 72 of PPS3 make it clear that prematurity in connection with emerging Development Plan Documents (DPDs) will seldom be a valid ground for the refusal of a housing development, and the Secretary of State agrees with him (IR11.47) that the extent of the delay envisaged by the Council in resolving issues in their DPDs means that refusal of the appeal application on grounds of prematurity would not be justified (IR11.48). Nevertheless, for the reasons given at IR11.96 (and considered further at paragraphs 14 and 20 below), the Secretary of State agrees with the Inspector that there are other

factors to be taken into account in deciding whether it would be appropriate to release this site for residential development at this stage.

Other PPSs

14. For the reasons given at IR11.49-11.55, the Secretary of State agrees with the Inspector at IR11.57 that the appeal proposal would lead to the permanent loss of at least 3 ha of best and most versatile (BMV) agricultural land and that, even though it could not be farmed as BMV land, its loss would still be at odds with the approach of PPS7. The Secretary of State also agrees with the Inspector's conclusion at IR11.57 that it has not been shown that the development of agricultural land is unavoidable now.
15. The Secretary of State agrees with the Inspector (IR11.58-11.60) that the appeal development would comply with the guidance given in PPS9.
16. For the reasons given at IR11.62-11.65, the Secretary of State agrees with the Inspector at IR11.66 that the appeal site would provide a sustainable location for housing. He therefore also agrees with the Inspector's conclusion at IR11.67 that the appeal development would be consistent with PPG13. Furthermore, he agrees with the Inspector's conclusion at IR11.70 that, for the reasons given at IR11.68-11.69, there would be no impact on the highway network arising from the appeal development which would support dismissal of the appeal.

Other material considerations

17. For the reasons given at IR11.71-11.75, the Secretary of State agrees with the Inspector's conclusions at 11.76 that, although the appeal development would change the landscape and the view of the appeal site and its immediate area, there is nothing particularly critical or sensitive in the landscape character of the site. He also agrees that the proposal would make some improvement to the transition between housing and agricultural uses and that the proposed biodiversity area would be a positive advantage. Overall, therefore, the Secretary of State agrees with the Inspector (IR11.77) that landscape and visual issues do not give rise to material considerations which would justify dismissing the appeal proposal. He also agrees that the issues raised in relation to the impact of the proposal on Mowbreck Hall Farm do not give rise to material considerations which would justify its dismissal (IR11.78-11.80); and that the extent of local opposition is not, in itself, a matter to be taken into account in the balance of factors for and against the scheme (IR11.82).

Conditions

18. The Secretary of State has considered the proposed conditions for the appeal scheme and the Inspector's comments at IR11.83-11.88. He is satisfied that the conditions recommended in the Inspector's schedule are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that these overcome his reasons for refusing the appeal.

Obligation

19. The Secretary of State has considered the Section 106 Unilateral Undertaking and the Inspector's comments on it (IR11.89-11.91). However, while he agrees

with the Inspector (IR11.91) that its provisions would be necessary, directly related to the development and fairly related in scale and kind to it, for the reasons set out earlier in this letter he does not consider that they would be sufficient to overcome his concerns with the appeal proposal.

Overall Conclusions

20. The appeal proposal would accord with the RSS in terms of numerical provision. It would also accord with PPS3 in contributing towards meeting the shortfall resulting from the Council's failure to demonstrate a five-year supply of housing land across the Borough, in achieving a good mix of housing on a sustainable site and in helping to meet the affordable housing shortfall in the area. However, these matters have to be considered against the proposal's conflict with saved FBLP policies with regard to settlement boundaries, the restriction on development in the countryside, the need for new development to be in keeping with the character of the locality in terms of scale, and the need to avoid the permanent loss of BMV land unless absolutely unavoidable. Having weighed all these considerations in the planning balance, it is the Secretary of State's opinion that the scales are tipped against the proposal in terms of its overall conformity with the development plan. In particular, he considers that allowing the appeal in advance of establishing the appropriate level of future housing provision across the Borough would pre-empt decisions on revised settlement boundaries before current uncertainties with regard to population growth and distribution can be settled in a statutory planning context. The Secretary of State concludes that these factors are important material considerations in their own right as well as representing conflicts with the saved Local Plan. When taken together, it is his view that they outweigh the conformity of the appeal proposal with the RSS to which he has given limited weight and those material considerations he has identified as being in its favour.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses outline planning permission for the demolition of existing dwellings and redevelopment of the site for up to 264 dwellings together with associated development, open space, landscaping and development relating to biodiversity enhancement/protection in accordance with application ref: 08/1072.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

23. A copy of this letter has been sent to Fylde Borough Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A1

Post inquiry correspondence before 10 November 2010.

Ingrid Maughan	e-mail	15.09.10
Lesley Parkinson	e-mail	22.09.10
John F Smith	letter	28.09.10
Mark Menzies MP	letter	21.10.10

Annex A2

Post inquiry correspondence since 10 November 2010.

Fylde BC	letter	20.12.10
CPRE Fylde	letter + submission	29.12.10 & 12.01.11
Wesham Action Group	response document	30.12.10 & 12.01.11
De Pol Associates Ltd	submissions	30.12.10 & 13.01 11

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Report to the Secretary of State for Communities and Local Government

By Michael Ellison MA(Oxon)

An Inspector appointed by the Secretary of State for
Communities and Local Government

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4 November 2010

TOWN AND COUNTRY PLANNING ACT 1990

FYLDE BOROUGH COUNCIL

APPEAL by METACRE LTD

in connection with proposed residential development at

LAND NORTH OF MOWBRECK LANE, WESHAM, PR4 3HA

Inquiry opened on 14 September 2010

File ref: APP/M2325/A/10/2127459

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CASE DETAILS

Appeal ref: APP/M2325/A/10/2127459

Land north of Mowbreck Lane, Wesham, PR4 3HA

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Metacre Ltd (“the Appellants”) against Fylde Borough Council (“the Council”).
- The application (ref: 08/1072) is dated 12 December 2008, and is for outline planning permission with all matters apart from access reserved. It was refused by notice dated 17 March 2010.
- The development proposed is the demolition of existing dwellings and redevelopment of the site for up to 264 dwellings together with associated development, open space, landscaping and development relating to biodiversity enhancement/protection.
- The case was recovered for determination by the Secretary of State by letter dated 10 September 2010. The reasons stated for recovery were that the appeal proposal would involve residential development of over 150 units on a site of over 5 hectares, and that it was considered that the decision on the appeal would have a significant impact on the Government’s objectives to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
- The inquiry sat for seven days on 14, 15, 16, 17, 20, 21 and 22 September 2010.

Summary of Recommendation: That the appeal be dismissed.

1. INTRODUCTION AND PROCEDURAL MATTERS

- 1.1 The Borough of Fylde lies within the Fylde Peninsula, and extends from the Ribble estuary in the south to the River Wyre in the north. It has an area of around 160 square kilometres, and had a population at the 2001 Census of 73,249. The main centres of population are the coastal resorts of St Annes and Lytham, Kirkham and Wesham (which lie about 5 kilometres north of the Ribble and 10 kilometres east of the sea coast), and Warton and Freckleton. There are several villages in the remaining rural area.
- 1.2 Although submitted in outline, the application was accompanied by an Illustrative Site Layout and a Development Framework Plan (both later superseded as will be explained below), a Design and Access Statement (Document CD3), a Transport Assessment and Travel Plan Framework (Documents CD4 and CD5), a Flood Risk Assessment (Document CD16), an Ecological Assessment (Document CD9), a Landscape and Visual Assessment (Document CD15) and a Sustainability Statement (Document CD8).
- 1.3 During the course of discussions on the application between the

Appellants and the Council, an amended Development Framework Plan was prepared (Document CD2); there was an Addendum Transport Report (Document CD7) and a Stage 1 Road Safety Audit was produced along with a Design Team Response (Document CD6); and there were additional ecological surveys (Documents CD 10, 11, 12, 13 and 14). All these documents were before the Council when they resolved to refuse the appeal application on 17 March 2010.

1.4 The Council refused the application for four reasons as set out below:

- a. *The proposed development site is classified as best and most versatile agricultural land. The applicant has failed to provide sufficient evidence to adequately demonstrate that there are no alternative areas of previously developed land, land within the boundaries of settlements or poorer quality agricultural land that is available to meet the identified housing need for the borough. As such, the proposal is contrary to Policy EP22 of the Fylde Borough Local Plan (as amended) (sic) 2005 and paragraph 28 of PPS7.*
- b. *The scale of development proposed, in conjunction with existing residential developments under construction in the vicinity of the site, is excessive in scale for Wesham and will detract from the urban form and character of this part of the town which is situated in a critically sensitive transitional location where the character of the open countryside predominates. As such the proposal is contrary to criteria (sic) 2 of Policy HL2 of the Fylde Borough Local Plan (as amended) (sic) 2005.*
- c. *The position of the junction between the application site and Fleetwood Road, given its proximity to the roundabout junction of Fleetwood Road and the A585 and the proposed pedestrian crossing associated with the "Crossing Gates" development, is detrimental to highway and pedestrian safety and so contrary to criteria (sic) 9 of Policy HL2 of the Fylde Borough Local Plan (as amended) (sic) 2005.*
- d. *The applicant has failed to provide sufficient evidence to demonstrate that the development will not have an adverse impact on the hydrological and ecological value of the Wesham Marsh Biological Heritage Site or that any impact is capable of adequate mitigation based on the submitted information. As such the proposal is contrary to Policy EP17 and criterion 5 of Policy HL2 of the Fylde Borough Local Plan (as amended) (sic) 2005 and the principles established in PPS9: Biodiversity and Geological Conservation*

1.5. On 2 June 2010, the Council resolved to withdraw reasons for refusal (c) and (d). In August 2010 the aspect of reason (b) relating to the impact of the proposed development on the urban form and character of Wesham was also withdrawn. The remaining part of reason (b) relating to the scale of the development in the context of other residential developments in the immediate area was, however, maintained by the Council. On 3 June 2010, the Council advised the Appellants that they

intended to introduce a new reason for refusal at the inquiry following receipt of a letter from the Secretary of State of 27 May 2010 intimating that Regional Strategies were to be abolished, namely:

With specific reference to the issue of housing supply, the Local Planning Authority will argue that it has no requirement to release this greenfield site to meet targets for residential development previously set out in the Regional Spatial Strategy.

- 1.6 When the proofs of evidence for the inquiry were received, it became clear that the Council also argued that planning permission should not be granted for the appeal proposal on grounds of prematurity, given the present position regarding the preparation of the Council's Local Development Framework ("LDF") referred to in paragraph 4.4 below. The Appellants objected on the ground that this issue was raised neither in the reasons for refusal nor in the Council's Statement of Case for the inquiry. While I accepted that that was the case, I indicated to the parties through the Planning Inspectorate in advance of the opening of the inquiry that in my view the issue of prematurity was raised by the fact situation in the case, and it was a matter on which I should in any event have been asking the parties to comment at the inquiry in order to assist me in reporting to the Secretary of State on the appeal. I therefore invited all the parties to address the issue at the inquiry.
- 1.7 The issues of impact on the character of the area, highway safety and the hydrological and ecological effect on the Wesham Marsh Biological Heritage Site ("BHS") continued to be pursued by interested parties, notably by the Wesham Action Group ("WAG"), who applied for and were awarded Rule 6(6) status in relation to the inquiry.
- 1.8 Following the refusal of the appeal application by the Council, discussions continued between the Appellants, the Council and Lancashire County Council ("the County Council"), who are the Local Highway Authority for the area. As a result of those discussions, an amended Illustrative Site Layout was prepared (Document CD17), and revised proposals for both on- and off-site highway works were produced (Documents CD18 and CD19). The Illustrative Site Layout does not form part of the appeal application, but it is produced to inform the consideration of the proposal. There were also further updated ecological surveys, which form Documents CD 20, 21 and 22.
- 1.9 No objection was raised by the Council or by any other party to the consideration of these additional documents at the inquiry.
- 1.10 A Statement of Common Ground ("SCG") agreed between the Council and the Appellants was submitted to the inquiry (Document APP/0/1). This was later varied in relation only to the agreed conditions which had been set out in the SCG. Following discussion at the inquiry, revised agreed conditions were set out in Document LPA/0/4. A joint statement on transport matters ("JST"), agreed between the Appellants and the County Council was also submitted to the inquiry (Document APP/0/2).

The contents of these documents will be briefly described and referred to as necessary in this report.

- 1.11 An executed Unilateral Undertaking under Section 106 of the Town and Country Planning Act was also discussed at the inquiry and submitted before the inquiry was closed (Document APP/O/9). Its provisions are also described and referred to as necessary in this report.
- 1.12 I made an unaccompanied site visit to the site and the surrounding area before the opening of the inquiry. I carried out a formal site visit accompanied by representatives of the parties on 22 September 2010.
- 1.13 This report contains a brief description of the application site and its surroundings, the gist of the representations made at the inquiry and in written representations, and my conclusions and recommendation. Copies of the proofs of evidence of those witnesses who provided them are included as accompanying documents, but my report covers the gist of the evidence as given (including responses to matters dealt with in cross examination).
- 1.14 Appendix A contains a list of those who appeared at the inquiry. Appendix B lists the documents which were considered at the inquiry. Appendix C contains the conditions which I recommend should be imposed on any planning permission granted. Appendix D comprises a list of the abbreviations used in this report.

2. THE APPLICATION SITE AND THE SURROUNDING AREA

- 2.1 There is an extensive agreed site description contained in the SCG. In this section of my report, I therefore merely draw attention to the main features of the appeal site and its surroundings.
- 2.2 The appeal site covers approximately 14.7 hectares, and it is located on the northern boundary of Kirkham and Wesham, two small towns which together represent the second most populous concentration of development within the Council's area. They are separated from each other only by the Preston to Blackpool railway line. The relationship of the appeal site with Wesham and with Kirkham is helpfully shown on the map on page 2 of the Design and Access Statement (Document CD3).
- 2.3 Fleetwood Road runs to the west of the appeal site in a north/south direction. It is the main road through Kirkham/Wesham, leading from the town centre of Kirkham north to the M55 motorway. Fleetwood Road also connects to the A585 Wesham Bypass at a roundabout located at the northwest corner of the appeal site. Mowbreck Lane runs in a west/east direction to the south of the appeal site, connecting to Fleetwood Road to the south west of the site.
- 2.4 The irregularly shaped appeal site is bounded to the north by houses alongside the A585, by agricultural land, and by the BHS; to the east it is bounded by agricultural land; to the south it is bounded by Mowbreck Lane and by a small housing development at Chapel Close which runs

off Mowbreck Lane; and to the west it is bounded partly by that same housing development, partly by allotment gardens and a recreation ground, and partly by Fleetwood Road. The detailed boundaries and the surrounding development can readily be appreciated from the Development Framework Plan (Document CD2).

- 2.5 The present use of the appeal site is almost entirely agricultural. It is currently in pasture, grassland and arable use, the fields being separated by hedgerow and ditch boundaries and sometimes by post and barbed wire fences. At the northwest corner of the site, however, are two detached bungalows. They provide the only frontage of the appeal site to Fleetwood Road. The appeal site is currently accessed by a farm track from Mowbreck Lane, adjacent to the detached property Medlar House and the eastern boundary of the Chapel Close development. There is no farm building on the appeal site.
- 2.6 The site is relatively flat. Apart from the hedgerow boundaries between the fields, trees are found almost only on the site boundaries. On a clear day, there are views across the site to the Bowland Fells in the east. The Hodder Aqueduct runs below ground across the centre of the site from west to east. Development is not permitted above the Aqueduct.
- 2.7 Turning to the surrounding area, the BHS covers an area of 9.6 hectares, and immediately adjoins the northeast corner of the appeal site. It is a non-statutory designated site of County level importance. It provides a wetland marsh habitat, together with ground nesting for birds and a grassland habitat for small mammals including rabbits, brown hare and hedgehogs.
- 2.8 To the south of Mowbreck Lane, there are existing modern housing areas, with some existing dwellings facing the southern boundary of the appeal site. There is also some remaining Health Service use at the Wesham Hospital Rehabilitation Unit, although the major part of the former hospital site is being redeveloped for residential purposes. A total of 73 dwellings has been completed on this Derby Road development, with a further 137 under construction.
- 2.9 The area to the west of the appeal site between the site and Fleetwood Road includes the St Joseph's RC Church and Primary School between Mowbreck Lane and the allotment gardens and recreation ground referred to in paragraph 2.4 above. Across Fleetwood Road there is a fire and an ambulance station together with existing housing development. Opposite the northwest corner of the appeal site and across Fleetwood Road, there is a further area of new housing development, the "Crossing Gates" site. This comprises a planned 106 properties between Weeton Road and Fleetwood Road. Some 82 dwellings have been completed, with a further 24 under construction.

3. THE PROPOSED DEVELOPMENT

- 3.1 Although the gross area of the appeal site is 14.7 hectares, it is only

proposed that some 9.1 hectares will be devoted to residential development. This residential area, providing up to 264 dwellings, would be focussed on a spine road running through the site between two main access points, one at the northwest corner off Fleetwood Road (where the two existing bungalows would be demolished) and the other at the southeast corner off Mowbreck Lane. A third access connecting to the spine road would be located further west along Mowbreck Lane. Permission is sought as part of the appeal for the access points (as now shown in Documents CD18 and CD19), but not for the route of the spine road.

- 3.2 The layout, appearance and scale of the dwellings would be reserved matters, along with the landscaping of the site, but, by tying any approval by condition to the Development Framework Plan, any development carried out would reflect the parameters of the proposals considered at the inquiry. Some 30% of the dwellings constructed on the site would be provided as affordable housing, as secured by the executed Unilateral Undertaking. The development would also be required by condition to provide public open space to the standards required by the Development Plan for the area.
- 3.3 The balance of the appeal site (5.6 hectares) would be developed as a biodiversity area, to provide a transitional area between the proposed housing development and the BHS. The detailed proposals for the biodiversity area are also reserved, but its boundary is defined on the Development Framework Plan.

4. PLANNING POLICY

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 Following the revocation on 6 July of the Regional Spatial Strategy for the North West ("RSS"), the Development Plan for the area includes the saved policies of the Fylde Borough Local Plan (As Altered) ("FBLP"). A copy will be found at Document CD26. It is an amalgamation of the Fylde Borough Local Plan (1996-2006), adopted in May 2003, and the Fylde Local Plan Alterations Review (2004-2016), adopted in October 2005. The saved policies of the FBLP continue in force as a result of directions made by the Secretary of State under the Planning and Compulsory Purchase Act 2004.
- 4.3 The SCG records at paragraph 6.5 all the saved policies of the FBLP considered by the Appellants and the Council to be relevant to the appeal application. Those which are central to the determination of the appeal are in my view:
 - a. Policy SP1, which states that, subject to other policies in the FBLP, developments will be permitted within the limits of certain listed settlements, one of which is Kirkham and Wesham.

- b. Policy SP2, which seeks to restrict development in countryside areas.
 - c. Policy HL2, which sets out a number of criteria with which housing development should comply (including compatibility with the character of the locality in terms of scale), and indicates that previously developed sites should be developed before greenfield sites.
 - d. Policy EP22, which provides that development will not be permitted which would involve the permanent loss of the best and most versatile agricultural land where such development could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas or on poorer quality agricultural land.
- 4.4 Preparation of a LDF for Fylde has commenced, but no draft Core Strategy (“CS”) or Site Allocations Development Plan Document (“SADPD”) has yet been produced by the Council.
- 4.5 Although it is not part of the Development Plan, the Council adopted an Interim Housing Policy (“IHP”) in April 2008. This has now been superseded by an amended IHP adopted in August 2010 following the revocation of the RSS. A Strategic Housing Land Availability Assessment (“SHLAA”) was published by the Council as a consultation draft in February 2010 (Document CD34). This is also not part of the Development Plan. Both documents are, however, material considerations.
- 4.6 Although the RSS has been revoked, the evidence base on which it was prepared remains a material consideration. Guidance issued on behalf of the Secretary of State (“CLGGN”) when local authorities were notified on the revocation of the RSS is also accepted by the parties to be a material consideration (Document CD25).
- 4.7 A number of national planning policy guidance documents are also relevant to aspects of the application, notably:
- PPS1 (Delivering Sustainable Development) together with the companion document The Planning System: General Principles
 - PPS3 (Housing) with the companion advice Demonstrating a Five Year Supply of Deliverable Sites
 - PPS4 (Planning for Sustainable Economic Growth)
 - PPS7 (Sustainable Development in Rural Areas)
 - PPS9 (Biodiversity and Geological Conservation)
 - PPS12 (Local Development Frameworks)
 - PPG13 (Transport)
 - Circular 11/95 (The Use of Conditions) together with

- Circular 05/2005 (Planning Obligations).

In addition, Regulation 122 of the Community Infrastructure Levy Regulations 2010 will be relevant to the Unilateral Undertaking offered in connection with the appeal development.

5. MATTERS AGREED BETWEEN THE APPELLANTS, THE COUNCIL AND (AS APPROPRIATE) THE COUNTY COUNCIL

- 5.1 Section 7 of the SCG sets out a number of issues on which there is agreement between the Appellants and the Council. Where highway issues are involved, it is clear from Document APP/0/2 that the County Council as Local Highway Authority are also in agreement. I believe that it is worth recording these matters in this report, and they are therefore set out below.
- 5.2 Subject to the agreed conditions set out in Document LPA/0/4, the following matters are agreed between the Appellants and the Council:
- a. The proposed development is in a sustainable location in terms of accessibility to shops, schools, employment sources, public transport and other community facilities.
 - b. The appeal site is physically capable of being developed for housing without detriment to any flooding or drainage interests.
 - c. There is sufficient capacity in the surrounding road network to accommodate the trips that would be generated by the development.
 - d. The position and design of the proposed vehicular access from Fleetwood Road is considered by the County Council to be safe and appropriate relative to both the A585 roundabout junction and the proposed signal controlled pedestrian crossing on Fleetwood Road. Similarly, the position and design of both proposed vehicular accesses on Mowbreck Lane are considered by the County Council to be safe and appropriate.
 - e. The appeal site has no statutory nature conservation designation and is not adjacent to a site protected by any statutory designation, although it is adjacent to the BHS. The site is outside the boundary of the BHS, and, subject to the agreed conditions, the appeal development would have no adverse impact on the BHS.
 - f. No Great Crested Newt ("GCN"), Water Vole or other protected species has been recorded as resident within the appeal site. Subject to the implementation of the agreed Provisional GCN Mitigation Method Statement, there would be no effects on GCNs or other protected species.
 - g. The proposed development would maintain and enhance biodiversity in the locality.
 - h. The Landscape and Visual Assessment submitted with the appeal

application is accurate and meets the requirements of the 2002 guidance issued by the Landscape Institute/ Institute of Environmental Management and Assessment (“LI/IEMA”).

- i. The proposed provision of 30% affordable housing within the scheme is an appropriate level of such provision, and would contribute towards addressing existing needs within Kirkham/Wesham and the Borough of Fylde.
 - j. There would be appropriate opportunity to secure adequate open space provision within the scheme at the reserved matters stage to meet the requirements of the FBLP.
 - k. The only policies of the FBLP with which the Council consider the appeal development to be in conflict are Policies SP1, SP2, EP22 and criterion 2 of Policy HL2 in relation to scale.
 - l. With the exception of the two existing dwellings at the northwest corner of the appeal site, the site comprises greenfield land as defined in Annex B to PPS3.
 - m. The appeal site is not allocated for any particular land use in the FBLP, but is located outside the defined limits of development of Kirkham/Wesham within an area designated as countryside. The parties agree that the appeal proposals do not comply with Policy SP2 of the FBLP.
 - n. Kirkham/Wesham is the second largest settlement within the Borough based on population size.
 - o. The appeal proposals would contribute to the Borough’s five year housing supply.
 - p. Without prejudice to the dispute between the Appellants and the Council as to the weight to be given to the housing targets contained in the revoked RSS, based on those targets and the SHLAA, the Borough would not have a deliverable five year housing land supply, and would require greenfield edge of settlement housing allocations in the LDF.
- 5.3 It is, however, the case that WAG and certain interested parties do not agree on many of those points, and the evidence given for the Appellants at the inquiry therefore covers many of the issues on which there is agreement between the Appellants and the statutory authorities.

6. THE CASE FOR THE APPELLANTS

The material points are:

- 6.1 Paragraph 8.1 of the SCG identifies only three matters as being in dispute between the Appellants and the Council. They are:

- a. The implications of the revocation of the RSS on housing supply matters and the need to release the appeal site for development.
- b. Whether the appeal site comprises best and most versatile (“BMV”) agricultural land, and whether the appeal proposals conflict with FBLP Policy EP22 and paragraph 28 of PPS7.
- c. Whether the development proposed is excessive in scale for Wesham in conflict with criterion 2 of FBLP Policy HL2.

The implications of the revocation of the RSS on housing supply matters and the need to release the appeal site for development

- 6.2 While the decision of the Secretary of State to revoke the RSS is known to be the subject of a legal challenge, for the purposes of this inquiry the Appellants are working on the basis that the RSS has been validly revoked.
- 6.3 The CLGGN issued at the time the RSS was revoked (Document CD25) made it clear that it was important for Local Planning Authorities to carry on preparing LDFs and making decisions on planning applications. That guidance confirms that decisions are still to be taken in accordance with the Development Plan unless material considerations indicate otherwise; that national planning policy is a material consideration; and that the evidence which informed the preparation of the revoked RSS may also be a material consideration depending on the facts of the case.

Compliance with the Development Plan – FBLP Policies SP1 and SP2

- 6.4 The appeal proposal would be located outside the defined development limit of Kirkham/Wesham as defined on the proposals map and within an area designated as countryside. It would therefore be in conflict with FBLP Policies SP1 and SP2. There are, however, substantial material considerations which outweigh the conflict with those Development Plan policies.

Relevant national planning policy

- 6.5 PPS1 requires Local Planning Authorities to bring forward sufficient land to meet the expected need for housing in their areas. It identifies this as a feature of a sustainable community. The homes provided should include an adequate level of affordable housing. These requirements are carried forward in PPS3; paragraph 29 of that document requires Local Planning Authorities to set an overall target for the amount of affordable housing to be provided.
- 6.6 PPS3 goes on to require adopted DPDs to set out policies and strategies for delivering the necessary housing for a period of fifteen years from their adoption. In particular, sufficient specific and deliverable sites should be identified to provide the necessary level of housing required in the first five years. That five year supply must be maintained on a continuous basis and reviewed annually.

- 6.7 Paragraph 71 of PPS3 indicates that, where a Local Planning Authority cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing having regard to the policies in the PPS. This provision has been retained in the version of PPS3 which was reissued in June 2010. The CLGGM also makes it clear that Local Planning Authorities are still required to have regard to national policy, and, specifically, to provide a five year supply of deliverable housing sites.
- 6.8 Paragraph 68 of PPS3 indicates that, when making planning decisions for housing developments after 1 April 2007, Local Planning Authorities should have regard to the policies in PPS3 as material considerations which may supersede policies in existing Development Plans. This is relevant in considering the applicability of Policy SP1 of the FBLP.
- 6.9 When certain policies in the FBLP were saved by the Secretary of State in September 2007 and October 2008, the covering letters sent on behalf of the Secretary of State drew attention to the importance of giving consideration to new national policy issued since the elements of the FBLP were originally adopted, and particular reference was made to PPS3 (the letters are at Document CD27).
- 6.10 The FBLP does not contain any housing allocations, nor does it have any policy and strategy for delivering a continuous supply of housing over the next fifteen years. Policy SP1 permits development within defined limits of settlements including Kirkham/Wesham. These settlement boundaries were, however, defined in the original Local Plan of 2003, which was only intended to cover the period to 2006. It was adopted at a time when there was not considered to be a need for significant additional housing land in the area. The housing requirements for the area contained in the Structure Plan which applied at that time had already been met. The development of further greenfield land was therefore not envisaged.
- 6.11 Circumstances have now changed, with (as will be seen below) significant housing need having been recognised in subsequent housing policy documents. In those circumstances, the basis on which Policy SP1 was set have changed dramatically, and it is at odds with the requirements of PPS3. Paragraph 68 of PPS3 therefore applies.
- 6.12 PPS3 also requires Local Planning Authorities to set an overall target for the provision of affordable housing to meet the needs of current and future occupiers.

The evidence which informed the preparation of the revoked RSS

- 6.13 The revoked RSS was published in September 2008, and was intended to cover the period to 2021. It required a total of 5,500 dwellings to be provided in Fylde between 2003 and 2021 at an annual rate of 306 dwellings per year (“dpa”). The figure of 306 dpa coincided with the Council’s own view of the necessary level of provision for their area, as put forward at the examination in public of the RSS in 2006/7 (“the

Option 1 figure”).

- 6.14 The requirement of 306 dpa represented a significant increase in the previous level of provision of 155 dpa required under the former regional planning guidance. In anticipation of the increased level of required provision, the Council adopted an IHP in July 2008, recognising that the Council’s Local Development Scheme indicated that the emerging CS and the SADPD would not be in place until 2012 (on the then current timetable). The 2008 IHP was prepared as an informal document, because it was recognised that the preparation of a DPD would take too long a period, and there was no parent policy in the FBLP to which a supplementary planning document could be attached. The preparation of an IHP was, however, referred to in the Council’s adopted Local Development Scheme of March 2007, and the 2008 IHP was the subject of public consultation and formal adoption.
- 6.15 Between 2003/4 and 2009/10, the actual number of dwellings completed in Fylde was 1,569, a shortfall of 573 on the target set by the RSS.
- 6.16 The Council’s Housing Needs and Demand Study Update 2007 (Document CD40) identified the total requirement for affordable homes in the Borough as 568 per year. Clearly that figure could not be provided within a total target for all dwellings of 306 per year, but it underlines the extent of the need for affordable properties in the area. Document CD40 also breaks the requirement down by settlement, and the figure for Kirkham/Wesham is 63 affordable dpa. Actual affordable housing completions in the Council’s area have been very low in comparison with that identified need – just 18 dpa between 2004 and 2010 across the whole Borough, and 25 dpa between 2001 and 2010.

The current position in relation to housing provision and need following the revocation of the RSS

- 6.17 When the RSS was revoked, the CLGGN in effect gave Local Planning Authorities three options for discharging the responsibility which passed to them for establishing the appropriate level of housing provision for their area: they could retain the RSS figure; revert to their Option 1 figure (which in the Council’s case would have produced the same result); or review their housing targets. If they decided on a review, the result of that process was to be based on reliable information.
- 6.18 The Council decided on 5 August 2010 to carry out a review. This would result in them setting out their own revised target. Paragraph 10 of the CLGGN indicates that any such review should be an early review, so that communities and land owners know where they stand. It is accepted that such a review cannot take place overnight, and that, so far as is known, no authority which has decided to review the target had been able to complete such a review by the date of the inquiry. However, the CLGGN also makes it clear that the five year supply requirement continues to apply and that previous evidence which supported the RSS should not be ignored.

- 6.19 In the meantime, the Council have adopted a revised IHP under which they have agreed that residential development could be allowed on small previously developed sites and greenfield sites within established settlement boundaries until the target is settled. This new policy, unlike the 2008 IHP, was adopted without any public consultation. Moreover, the restriction to small sites (which was not included in the 2008 IHP) was not founded on a robust evidence base as is required by PPS12 if policy documents are to be regarded as sound.
- 6.20 No weight at all should be attached to this informal document, which has no parent policy in the FBLP, has been produced without any discussion with stakeholders either before its adoption or subsequently, and which flies in the face of the requirement in paragraph 6.4 of PPS12 that Councils should not produce guidance intended to be used in decision making other than formal Supplementary Planning Documents. There has been no assessment of how the policy would achieve, or what its effect would be on, the identification of a five year land supply.
- 6.21 The CLGGN does not remove the requirement in PPS3 that Local Planning Authorities should continue to demonstrate a five year supply of deliverable sites. In Fylde, it is clear that there is not such a supply. The most recent Housing Land Availability Schedule (Document CD36) sets out the position at 31 March 2010. As compared with the RSS and Option 1 targets of 306 dpa, the Council had sites available at that date for the whole of the next five years for 560 dwellings, 330 from identified sites with a yield of more than six properties, and an assumed 230 dwellings from windfall sites. This equates to an assumed level of completions of 112 dpa.
- 6.22 It is not the case (as WAG contend) that the revocation of the RSS effectively reinstates the housing target included in the former Regional Guidance or the Joint Lancashire Structure Plan. There is no justification for that view.
- 6.23 Whatever the outcome of the Council's review of housing need, it could hardly be that the need had fallen from the 306 dpa, which the Council itself put to the RSS examination in public and which was accepted in the RSS in October 2008, to a level of 112 dpa over a period of two years during which the updated 2006 household projections for the area (published in March 2009) forecast a growth of 2,000 households for Fylde between 2006 and 2011 and a further growth of 2,000 households between 2011 and 2016. While the Council refer to 2008 updated household projections (published in May 2010) which reduce these figures to some extent, they continue to postulate a population increase. Even the RSS target would have met only half of the Government's household growth predictions, but it was seen to represent the maximum which was deliverable.
- 6.24 Against that background, it is of little surprise that the Fylde Coast Housing Strategy of 2009 (Document CD37), which covers the Council's area amongst others, concluded that the rate of development of new houses was lagging behind the rate of growth of households.

- 6.25 Turning to the position in relation to affordable homes, while the Housing Land Availability Schedule indicates that at 31 March 2010 there was a supply of 88 affordable homes yet to be completed from extant planning permissions within Kirkham/Wesham, this represents only a 1.4 years supply based on the assessment of the 2007 Needs and Demands Study, which put the annual requirement for affordable homes within Kirkham/Wesham at 63.
- 6.26 The 79 affordable homes which the appeal development would provide would represent a significant and welcome addition to meet identified need in the area, in just the same way as the balance of the proposed 264 dwellings on the site would help to meet the overall demand for housing in the area. WAG suggest that there is no further need for affordable homes in Kirkham/Wesham while existing promised units in approved developments remain to be delivered, but, as indicated above, these promised units amount only to a 1.4 years supply.
- 6.27 On any assessment, it cannot be concluded that the Council have a deliverable five year housing land supply. It is therefore little wonder that planning permission was granted by an Inspector for a housing development outside settlement limits in the Hollywood Nurseries case (APP/M2325/A/08/2087698, Document CD43), or that the Secretary of State recently concluded in the Decision Letter on another housing appeal in Fylde at Queensway that *“irrespective of the RS requirement, there is an overall shortfall in the supply of housing land in the Borough”* (paragraph 14 of Document CD41 in relation to APP/M2325/A/09/2103453). The latter appeal was dismissed by the Secretary of State following the balance he struck between all the factors he regarded as relevant. That decision was, however, based on the particular issues raised by that appeal such as the scale of the development and of the infrastructure proposed, and the connectivity of the site with the settlement. There are fundamental differences between that case and the present appeal.
- 6.28 Given that PPS3 continues to require the Council to demonstrate a continuous five year housing land supply, it is not appropriate for the Council to seek to hide behind a decision to produce an alternative housing target as a means to resist a planning application or appeal.
- 6.29 Nor can weight be attached to the suggestion made by WAG and other objectors that current housing market conditions justify abandoning the need to demonstrate a five year housing land supply. The issue of demand falls to be assessed by a developer in considering whether to proceed with development rather than by a decision maker considering an application or appeal.
- 6.30 National planning policy requires a sequential approach to development whereby preference is given to the development of previously developed land ahead of greenfield land. National policy does not, however, preclude the development of greenfield land. The fact that the former RSS identified a target of 65% of housing development within Fylde on previously developed land indicates an acceptance that 35% of such

development would be on greenfield land. The Council's IHPs of 2008 and 2010 also recognise that some housing development will be on greenfield sites, as does the consultation draft of the SHLAA of February 2010 (Document CD34). That document concludes that there will be a significant need for greenfield land to be released for housing development.

- 6.31 Both WAG and the CPRE suggest that the development of housing at a site around the M55/A5230/A583 junction ("the M55 hub") would be preferable to development on the appeal site. That land is part of a bid by Blackpool Council for City Growth Point status. It lies partly in Blackpool and partly in Fylde, and the bid was supported by the Council. The development of that area would, however, be a longer term option, and would not necessarily take place within the time frame of even the emerging LDF. For those reasons, the Inspector in the Queensway appeal referred to above agreed that little weight could be given to the proposal. The same should apply in the present case. That site would in any event represent a significant development of rural countryside and agricultural land, which makes it difficult to see why WAG and the CPRE suggest that there is no need for the development of greenfield sites.
- 6.32 No doubt it was with all these matters in mind that, when the appeal application was taken to Committee for determination, the officers of the Council recommended that the application should be approved. They advised the Committee that the proposal was contrary to policy SP2 of the FBLP, but that the settlement boundaries in Policy SP1 were set in circumstances where the development of further greenfield land was not envisaged. Current information on housing need meant, however, that a sustainable location such as the appeal site should be released for development. The officers' advice was that the extent of that need and the related need for affordable housing outweighed the relevant Development Plan policies.
- 6.33 That judgement was clearly correct. There is a huge unmet need for affordable housing in the Borough generally and in Kirkham/Wesham in particular. The appeal development would assist materially in meeting that need. It is equally clear that there is no conceivable basis on which it can be argued that the Council have a five year housing land supply. There is no transparent timetable or process proposed by which the Council intend to carry out their review of the housing target by which the RSS target will be replaced. The 2010 IHP simply states that:

"The Local Planning Authority will work to establish a housing supply based on Fylde's housing need. Until this is established, work will continue with the production of a Core Strategy on the basis of establishing a broad framework to direct future housing growth within the Borough."

Yet both the reissuing of PPS3 and the CLGGN make it clear that such a target should still be identified, and such a target could be identified, based on established need.

The status of the agricultural land as best and most versatile land

- 6.34 The appeal site land has been graded using the system outlined in “Agricultural Land Classification of England and Wales– Revised Guidelines and Criteria For Grading the Quality of Agricultural Land” October 1988 (“ALC”).
- 6.35 Three of the four fields on the site (0837, 0453 and 8144) are farmed by Mr David Pickervance of Mowbreck Hall Farm. Field 0837 is currently sown to forage maize, and the other two fields are in grass. The field at the northwest corner of the site is in a different ownership, but it is also in grass.
- 6.36 A provisional ALC grading carried out in the 1970s showed all the land on the site to be Grade 3 (which at that time was not subdivided). A later survey in 1998 undertaken by the Farming and Rural Conservation Agency of the Ministry of Agriculture Fisheries and Food found the land to be within Grades 3a, 3b and 4 (although that survey did not cover all the land on the eastern edge of the site).
- 6.37 The much more detailed assessment involving 38 bore holes and seven trial pits carried out for the Appellants in connection with the appeal places 0.49 hectare in Grade 2; 2.51 hectares in Grade 3a; 9.73 hectares in Grade 3b; and 1.2 hectares in Grade 5. PPS7 indicates that land graded 1, 2 or 3a is to be regarded as BMV agricultural land. The appeal site thus contains some 3 hectares of BMV land. The large quantity of bore holes and trial pits was undertaken because of the variable level of wetness across the site.
- 6.38 Surveys were also carried out on behalf of the Council, but these involved fewer bore holes than the assessment undertaken on behalf of the Appellants and only one trial pit. In the final analysis, there was relatively little dispute between the experts who gave evidence on this issue for the Appellants and for the Council. The differences appeared to arise from the different sampling points used rather than from any significant difference of interpretation. In the Council’s closing submissions (Document LPA/0/5 at paragraph 38), it is conceded that, whilst the Council would say that the appeal site includes some 5 hectares of BMV land, the Council would not seek to argue against the proposition that the Appellants’ figure of 3 hectares is likely to be nearer the mark.
- 6.39 The surveys undertaken by Mr Surtees and Mr Crayston (which accompany Document WAG/4/P) included opinions on the grading of the land within the appeal site which were not derived from the extensive soil analysis which was undertaken on behalf of the Appellants. Mr Surtees referred to soil nutrient levels, which are not relevant under the ALC guidelines. One of Mr Crayston’s arguments for classifying the land as Grade 2 was based on data from the provisional ALC grading carried out prior to 1988, but the map on which this finding was based cannot generally be viewed at a scale less than 1:250,000. This makes it impossible to see clearly the grading for a small site such as the appeal

site. ADAS (the organisation from which the Appellants' expert witness comes) has the provisional ALC data at 1:7,500 scale, which clearly identifies the appeal site as having been classified as Grade 3 in 1977. Even that provisional grading is not necessarily correct, because it was not carried out in the detail which has applied to the present assessment for the purposes of this appeal.

- 6.40 WAG argue that the crop yields from the appeal site clearly indicate that it is BMV land, but yields from crops depend on many more issues than soil quality. The ALC classification system does not take account of crop yields.
- 6.41 Current national policy for the protection of agricultural land in PPS7 states that *"The presence of best and most versatile agricultural land should be taken into account alongside other sustainability considerations when determining planning applications"*. The 3 hectares of BMV land within the appeal site must be put into the context of the whole site. The BMV land lies primarily at the eastern and western boundaries of the site. The remaining, non marshland agricultural land is predominantly Grade 3b. An overall assessment of the site has to take into account practical, agricultural considerations. As the pockets of Grade 2/3a land cannot practically be farmed as individual units, their BMV status is not significant. In practice, except under exceptional circumstances, each field would be cropped as a single unit. With this in mind, the overall land classification status of the site is controlled by the most limiting land within it (in this case, the grade 3b land) and the overall site is thus not regarded as BMV land. It is accepted that there is nothing in PPS7 which indicates that any BMV land found must be separately farmable, but there is no point in retaining BMV land if it cannot be farmed as such.
- 6.42 Under PPS7, it is up to the Local Planning Authority to decide whether BMV land can be developed. Although Policy EP22 of the FBLP seeks to protect BMV land, the actual area of BMV land permanently lost which would trigger development being refused is not stated. There is a recent precedent for the Council accepting that some BMV may have to be lost because in the Queensway appeal (Documents CD41 and CD42) it was recognised that some 10 hectares of BMV land would be affected by the proposed development, much more than the 3 hectares involved in the present case. The issue was not, however, raised by the Council. Similarly, in a recent appeal relating to residential development at Ballam Road, Lytham (APP/M2325/A/10/2119536, Document LPA/0/1), although around 2 hectares of Grade 2 agricultural land was involved, the Council did not refer to this in their putative reasons for refusal.
- 6.43 Even if the appeal site were considered to involve the loss of a small amount of viable BMV land which could be farmed as such, the Council's SHLAA (Document CD34) demonstrates that there is insufficient appropriate previously developed land or land within the boundaries of existing settlements to meet the housing needs of the area. It is accepted in the SCG that the appeal site is in a sustainable location; that it is physically capable of being developed for housing; and that

greenfield, edge of settlement housing allocations will be required in the LDF.

- 6.44 FBLP Policy EP22 permits the development of BMV land where there are no appropriate alternative areas of previously developed land, land within the boundaries of settlements, or poorer quality agricultural land available to meet the identified housing needs of the Borough. Paragraph 28 of PPS7 also confirms that the presence of BMV agricultural land is just one factor to be taken into account alongside other considerations when determining planning applications. It states that:

“Where significant development of agricultural land is unavoidable, Local Planning Authorities should seek to use areas of poorer quality land (Grades 3b, 4 and 5) in preference to that of a higher quality except where this would be inconsistent with other sustainability considerations.”

- 6.45 In any event, the requirement under PPS3 to ensure that a sufficient quantity and mix of housing is brought forward to meet requirements has to be balanced with any perceived conflict with Policy EP22 and PPS7. Given the modest amount of higher grade land within the appeal site and the impracticability of farming it separately as BMV land, greater weight should be given to the requirement in PPS3 to ensure a flexible, responsive supply of housing land including a deliverable five year supply of developable land.
- 6.46 Mr Moor argued that peat is found within the site, and that this is a valuable resource, even though it might have a low grading as agricultural land. It is accepted that there is peat on the site at variable depths, and that peat is a resource; but it is not protected by PPS7, because it has little agricultural value.

The impact of the loss of 11.87 hectares of land from Mowbreck Hall Farm

- 6.47 Of the total area of the appeal site (14.7 hectares), some 11.87 hectares is currently farmed by Mr David Pickervance as a tenant of the Appellants. The farmland which would be lost to agriculture as a result of development comprises 9.24 hectares of rotational land and 2.63 hectares of permanent pasture. The total area farmed by Mr Pickervance amounts to 164 hectares, of which 148 hectares are held on a secure three generation Agricultural Holdings Act tenancy, with the remaining 16 hectares on a 364 days licence from a third party owner. This licence has, however, been renewed annually for a period of ten years. There is no farm building of any sort on the 11.87 hectares which would be affected by the appeal proposals.
- 6.48 Mowbreck Hall Farm currently operates as a mixed dairy and arable farm. In addition, agricultural contracting is undertaken for local farmers, and it was confirmed at the inquiry that this activity produces about a third of the income of the overall Mowbreck Hall Farm business.

- 6.49 The farm currently supports a herd of 150 Holstein/Fresian dairy cows, with approximately 150 dairy youngstock. Mr Pickervance advised the Appellants ahead of the inquiry that his intention was to expand the dairy herd to 200 milking cows. Milk is sold on a Tesco premium contract.
- 6.50 Of the total area of the farm, 36 hectares cannot be ploughed and are used as permanent pasture or marshland; the balance of 128 hectares is available for rotation. Normally there would be an area of 21.3 hectares of potatoes; 42.7 hectares of winter wheat; 21.3 hectares of maize or fodder beet; and 42.7 hectares of grass. All maize and fodder beet is grown for consumption by the dairy herd, as is approximately 50% of the wheat. The balance of the wheat and the potatoes are currently sold, although Mr Pickervance advised the Appellants before the inquiry that his future intention would be to cease growing wheat for sale.
- 6.51 Based on the intention to move to 200 dairy cows, an assessment of the impact of the loss of 11.87 hectares of productive land on the pre-rent and finance surplus of the pure farming business (excluding contracting) shows a reduction from £179,874 before the land loss to £173,276 after the land loss. Allowing for the saving in rent which would arise, the net reduction would be £5,079. Both budgets (which are contained in Document APP/6/A) have been prepared using standard gross margin data from the Agricultural Budgeting and Costing (“ABC”) Book (Document DC52). They have been prepared using actual income where it is known and medium yields as provided by Mr Pickervance. Profitability would be higher in years in which the best yields were obtained. The ABC Book is used nationally, including in the north of England and in Scotland. These figures demonstrate that the farm would remain viable as a business even after the loss of 11.87 hectares of productive land.
- 6.52 It is not accepted that it is appropriate to reduce the number of milking cows kept on the land as a result of the proposed loss of land. The farmer himself has indicated that it is his intention to move to a herd of 200 milking cows. That is the most lucrative farming activity carried out on the land, and any reduction in activity arising from any loss of land should logically involve a reduction of activities which produce a lower level of income. The farm would still retain an adequate area of land to sustain a 200 cow milking herd.
- 6.53 Although the Council, WAG and those advising Mr Pickervance sought to argue for other financial outcomes produced by the loss of the appeal site land to Mowbreck Hall Farm, nobody argued that any alternative outturn would leave a farm which was not profitable or viable.
- 6.54 The National Farmers Union make reference to Food 2030 (Document DC53), which sets out the Government’s vision for a sustainable and secure food system. Food 2030 accepts, however, that not all food will be grown domestically in the UK. There will continue to be imported products, recognising that food security does not necessarily imply self

sufficiency so long as secure supply chains exist and are maintained. The loss of such a small area of agricultural land as the appeal site would have a completely negligible impact on UK food security, the amount of imported food, and the maintenance of the UK agricultural skill base.

- 6.55 Mr Pickervance points out that he needs to maintain access to Medlar Brook (marked in blue on the plan WAG/7/A4) in order to undertake adequate maintenance of the waterway to prevent flooding of the adjacent farmland. The proposed development would remove the access via the track off Mowbreck Lane (coloured orange on WAG/7/A4)). If this access is lost, however, Mr Pickervance would still be able to use the access off Fleetwood Road, travel across Field 7567 (marked 1 on WAG/7/A4), and access the marsh area via the existing gateway in the south eastern corner of Field 7567, then moving to Medlar Brook by the same route as that used presently from the end of the orange track.
- 6.56 Mr Pickervance is also concerned that additional houses in the area could lead to an increase in vandalism and damage affecting the farm. The illustrative layout of the proposed development demonstrates, however, that there would be no houses actually bordering the remaining farmland. The biodiversity area would provide a buffer between the housing and the agricultural land to the north and northeast, and the hedgerow along the eastern boundary would also be retained. There would be no direct interface between housing and farm land.
- 6.57 There is no reason why the appeal proposal should be rejected on agricultural grounds.

The scale of the proposed development in the context of Wesham

- 6.58 The Council's remaining objection relates to the scale of the proposed development in the context of Wesham. In fact, the original village of Kirkham and the hamlet of Wesham have grown over the years to form a single, large, conjoined settlement. The process by which that has taken place can be seen from Plans L12 to L14 within Document APP/3/P. These plans show Wesham and Kirkham to have grown substantially between 1818 and the modern day. Today's Wesham and Kirkham is a pleasant town of mostly nineteenth and twentieth century development, surrounded by large areas of twentieth and twenty first century houses and streets. Over 60% of the settlement is of recent origin, with no significant boundary or edge.
- 6.59 The argument advanced by WAG that Wesham should be considered as a separate entity does not accord with the situation which can be observed on the ground or with the relevant policy documents. Kirkham/Wesham is treated as a single settlement in the FBLP with a single settlement boundary on the proposals map. It is the second main settlement in the Borough in terms of population size. The IHP also treats Kirkham/Wesham as one entity.

- 6.60 Both the Council and WAG sought to assess the overall impact on the settlement of the proposed development of the appeal site, together with the developments at Crossing Gates and the Hospital site at Derby Road. That is fundamentally misconceived. The impacts of the developments at Crossing Gates and Derby Road were considered when they were approved. They now form part of the baseline urban settlement area. Permissions for those developments were granted between 2004 and 2006, long before the RSS was published. It cannot now be argued that they impact on scale.
- 6.61 Kirkham/Wesham currently comprises a total of 4,512 dwellings. The appeal application would therefore increase the number of Kirkham/Wesham households by around 6%. The increase in population would be of the same order. That is hardly out of scale.
- 6.62 Indeed, even if all net dwelling completions within Kirkham/Wesham since 2003 together with extant planning permissions as at 31 March 2010 are taken into account (410 dwellings) along with the proposed 264 dwellings on the appeal site, just 24% of the Borough's housing growth since the start of the RSS period has been directed to Kirkham/Wesham (674 dwellings of the total of 2,855 dwellings which have been completed or have planning permission plus the appeal proposal). This level of growth is neither excessive nor unreasonable considering the status of Kirkham/Wesham in the settlement hierarchy. It is the only urban area within the Borough outside Lytham/St Annes with a designated town centre and a railway station, and provides a wide range of facilities and services.
- 6.63 Some third party objectors suggest that the appeal proposal would surcharge the sewer capacity in the area, and that there would be inadequate capacity in the educational and health services to accommodate the additional local residents who would occupy the proposed development. None of these claims is borne out by the facts, however. United Utilities have withdrawn their original objection to the development based on agreed conditions which are acceptable to the Appellants. The County Council confirm that there are spare spaces in both primary and secondary schools in the area and have not sought an education contribution from the Appellants. The two health centres in Kirkham are still accepting new patients, and no health contribution has been sought from the Appellants.
- 6.64 WAG also refer to PPS6, with which they say that the development would be in conflict. PPS6 has now been replaced by PPS4, but in any event PPS6 related to town centres and town centre uses, not to residential development outside town centres. In fact, the strength of town centres is dependent on their catchment areas; rather than having a detrimental impact on the vitality and viability of the town centre uses in Kirkham/Wesham, additional housing development would help to secure the future viability of the existing shops and services.
- 6.65 When the appeal application was reported to Committee, the Council's own officers expressed the following views:

“In planning policy terms, Wesham and Kirkham are considered together, as they are a single area of built development surrounded by countryside on the Local Plan proposals map. Whilst it is important that each has its own identity, it is unrealistic to consider development proposals of this scale as being related to Wesham alone. There are current housing developments under construction at Crossing Gates to the west and Derby Road to the south of this site, and objectors have commented that Wesham has had its share of the Borough’s development in recent years. However, as one of the major settlements within Fylde Borough, it is anticipated that it will be one of the general locations for such development. The nature of the surrounding housing pattern means that the site is capable of accommodating development at the recognised minimum density of 30 dwellings per hectare without causing undue conflict with the surrounding form of development. This also allows the site to be considered as a logical extension of the built area of the town with the BHS to the north providing a buffer to constrict further development pressures in that direction.”

- 6.66 Those views are shared and supported. The scale of the development proposed is not excessive in the context of developments already approved in the area. The proposals would form a practical rounding off of development on the northern edge of the town, with defensible green and attractive boundaries.

The issue of prematurity

- 6.67 Prematurity was at no stage identified by the Council as a reason for the refusal of the appeal application. It was not referred to in the Council’s Statement of Case for the inquiry, or even when the Council added a further reason for refusal on 3 June 2010. It was therefore clearly not an issue which the Council regarded as material when they took their decision on the application. The issue was raised for the first time by the Council only in one of their proofs of evidence produced in August 2010.
- 6.68 Paragraph 18 of “The Planning System: General Principles” states that refusal of planning permission on grounds of prematurity will not normally be justified. When a DPD is at the consultation stage with no early prospect of submission for examination, then refusal on prematurity grounds will seldom be justified because of the delay which this would impose on determining the future use of the land in question. Paragraph 19 of the document indicates that, where permission is refused on grounds of prematurity, the Local Planning Authority will need to demonstrate clearly how the grant of permission would prejudice the outcome of the DPD process.
- 6.69 In this case, there is no DPD document in existence, even as a draft, against which the appeal proposal can begin to be judged. Even the issues report is not yet available. The Council suggested at the inquiry that the issues document could be produced within three months, but this is not realistic. The Council have had two and a half years to produce such a document, but there is still no sign of it. Now they must

establish the level of housing need as well. Even when they produce a document for consultation, the consultation comments will need to be considered. It would be 2013 before there would be any prospect of the CS being adopted, and it would be 2015 before the SADPD would be adopted. The future of the appeal site would normally be dealt with in the SADPD. There was no suggestion made before the inquiry opened that the future of the appeal site might be dealt with in the CS, but if that line were to be taken, the production of the CS would be even further delayed while the relevant issues concerning the specific site were addressed. In the meantime, the Council propose to rely on small sites and infill to meet their housing need.

- 6.70 The appeal proposal is not so substantial that a delay on the ground of prematurity would be justified on that basis. It would amount to an increase of 6% in the households and population of Kirkham/Wesham, which would be entirely in scale with the function that Kirkham/Wesham plays in the Borough.
- 6.71 Refusal on the ground of prematurity would not only cause unacceptable delay in determining the future use of the appeal site; it would condemn Fylde to a further period during which the five year land shortfall would continue to increase, and utterly frustrate the provision of an adequate and continuous supply of housing land.

Ecology and Nature Conservation

- 6.72 Although the Council, the County Council and the Environment Agency (“EA”) have no objection on ecological and nature conservation grounds to the proposed development and there is no objection from Natural England, WAG raise such issues by way of objection. The Appellants therefore presented expert evidence on the subject.
- 6.73 The appeal site is dominated by arable farmland and improved, species poor grassland. Field 0453, adjacent to the BHS, contains dry grassland in the upper areas and increasing rush vegetation in the central and low lying, poorly drained and wet area, but the proposed residential development would take place on the arable farmland, and would not affect the rush vegetation adjacent to the BHS. The hedgerows along the field boundaries consist largely of hawthorn. They are species poor, and none is important in terms of the Hedgerow Regulations 1997. There is one field pond on the appeal site within Field 0837. The pond margins and the pond itself are overgrown by woody vegetation. The pond is seasonal, and it dried out in the late spring and summer of 2010.
- 6.74 The adjacent BHS was designated for its open water and associated wetland habitats, but its character has changed since designation because of the rush invasion of the marsh. The BHS is no longer suitable for most wild fowl and wading birds, although some species such as mallard, moorhen and common snipe still use the marshland. Instead, it has become important for breeding reed buntings.

- 6.75 The pond in the appeal site appears to be suitable for GCN, as are some ponds on adjoining land. No GCN was found in the pond on the appeal site, however, or in ponds on adjacent land in surveys carried out in 2008. A similar situation applied when surveys were carried out in 2009. Further surveys were carried out in 2010, however, because WAG had reported finding one male GCN in a pond north of the appeal site.
- 6.76 The 2010 survey found no evidence of GCN in the pond on the appeal site or in the pond where the single male had been found by WAG. A single GCN was found, however, in a pond in Grange Wood, to the east of the appeal site, and two, seven and one GCNs were found in ponds to the south of the appeal site on land across Mowbreck Lane. The closest of the ponds concerned to the appeal site lies more than 200 metres away, which makes it very unlikely that construction and residential use of the appeal site would have any adverse impact on GCN and their habitat. A Provisional GCN Mitigation Scheme has, however, been prepared and agreed with the County Ecologist. This involves the trapping and translocation of GCN and any other amphibians from the construction area to a safe habitat, and the creation of two new ponds and terrestrial habitat. The two new ponds would be created in the biodiversity area south of the BHS, and designed for natural colonisation by GCN and other amphibians.
- 6.77 The BHS contains ditches and ponds which resemble the traditional habitats of water voles. A water vole survey of the appeal site and the BHS was therefore carried out in 2009. No evidence of water voles was found. The same result occurred in a further survey carried out in 2010. This is at variance with the surveys undertaken by WAG, which reported evidence of water vole activity, but no actual sighting. Even if water voles are present, their habitat and the species itself would be unaffected by development, because the water regime of the BHS and its ditches would not be changed by the proposed development. There would be no construction work within the BHS, and no works within 5 metres of BHS ditches. Most water vole activity takes place within 5 metres of water courses and pond margins, so terrestrial habitat, if used, would be unaffected. The proposed biodiversity area would include features which would provide suitable habitat for water voles and encourage their natural colonisation.
- 6.78 Licensed bat surveys were carried out in 2009 because of the proposed demolition of the two bungalows at the northwest corner of the appeal site and because of the proposal to fell some trees. Further nocturnal surveys were carried out in July 2009. No evidence of roosting was found, but Common Pipistrelles were active in foraging locally. The conclusion is that the buildings could safely be demolished, but that ridge tiles and other roof materials should be removed by hand in the presence of a licensed bat surveyor against the possibility of use of the roof areas by bats. For the same reason, felling of trees should be undertaken by section cutting from the top, again in the presence of a licensed bat surveyor. The mitigation and enhancement proposals contained in the scheme would result in a net increase in bat habitat in

terms of both quantity and quality.

- 6.79 There is no known badger sett within 500 metres of the appeal site. WAG state that a roe deer is a regular visitor to the pond in Field 0837. The restoration of that pond would involve a reduction in woody cover, which would make it unsuitable for roe deer. There are, however, a number of suitable alternative roe deer habitats, including the nearby Grange Wood, which lies to the east of the appeal site.
- 6.80 While brown hare would probably not use the appeal site after development, the species would continue to use adjacent and nearby fields, which would still provide appropriate foraging habitats. At present, the appeal site provides little suitable cover for hedgehogs, but the proposed biodiversity area would contain large amounts of favourable habitat for the species.
- 6.81 The BHS provides a very favourable habitat for breeding birds, and this would be unaffected by the proposed development. The proposed biodiversity area would extend the available habitat. The same is true in relation to the use of the site by wintering birds. In addition, garden habitats are of significant importance for many wintering birds. The presence of additional gardens close to new habitats would be of considerable value.
- 6.82 There are 1,284 metres of hedgerow within and along the appeal site boundaries. Some 525 metres would be lost as a result of the appeal development, but 628 metres would be planted, resulting in a net gain of 103 metres of hedgerow habitat. The planting would involve a wider range of species than that found in the existing hedgerows. In addition, gaps of 244 metres in the existing eastern hedgerow would be filled.
- 6.83 The proposed biodiversity area would be intended to provide future residents of the development with a nature area that would be rich in plant and animal life. It would enhance the importance of the BHS by reproducing features (notably an open water habitat) which existed at the time of its original designation but have subsequently been lost. It would be designed to provide an educational and nature study feature close to the existing and proposed new residential area.
- 6.84 The proposal complies with PPS9 and FBLP policy requirements in relation to ecology and nature conservation. It would offer a considerable enhancement to biodiversity in the area. There is no sound reason on grounds of ecology or nature conservation to support the rejection of the appeal proposals.

Hydrology

- 6.85 The Flood Risk Assessment (“FRA”) submitted with the planning application (Document DC16) was based on published information. It shows that the appeal site is located in Flood Zone 1, an area with a low risk of flooding, and that surface water could be drained from the site as developed at discharge rates which match the current agricultural run

off, thereby maintaining the current drainage situation. The FRA was accepted by the Council and by the other relevant statutory consultees.

- 6.86 Third party objectors contend, however, that either too much water or a reduced amount of water would be discharged from the proposed development to the BHS, causing damage to the ecology of the area.
- 6.87 Appendix A within Document APP/2/P provides a detailed hydrological assessment of the appeal site. Boreholes were made on site during May 2010. They were installed with groundwater monitoring pipes. This detailed work shows that the assumptions made in the FRA were correct. The assessment shows that groundwater is present very close to ground level in the areas of the appeal site adjacent to the BHS. The soils in the area are easily saturated, but the potential for significant flows of groundwater from beneath the site to the BHS is very low.
- 6.88 A scheme has been produced to manage the surface water drainage from the appeal development using a Sustainable Urban Drainage System (“SUDS”). Surface water collected from the scheme would be returned to the local drainage system via a number of SUDS features to ensure that the appeal development would have no effect on the BHS. An attenuation lake would be constructed within the proposed biodiversity area to attenuate all the surface water from the residential area and to accommodate a 1 in 100 year flood event, including an allowance of 30% for higher rainfall as a result of climate change. Proposed improvements to the existing marl pit and proposed new amphibian ponds within the biodiversity area would also need to use surface water from the residential development. Document APP/0/8 conforms that concerns that there would be too much water for the drainage system to cope with are not justified.
- 6.89 Currently, some field drains discharge south, to drainage in Mowbreck Lane, and there is occasional flooding of Mowbreck Lane as a result. The proposed development would reduce the water discharging to Mowbreck Lane and assist in easing that existing occasional localised flooding. As a result, the attenuation lake would collect a larger volume of water than that which currently runs off the fields, but it would discharge it to the BHS at a rate equivalent to the current agricultural run off rate.
- 6.90 The surface water collected from the development area would be passed through interceptors to remove any surface contaminants. In relation to the concern of objectors regarding the potential for run off of hydrocarbons from the appeal site into the BHS, only very high levels of hydrocarbons would cause any problem. Occasional minor contamination would cause no real problem. The ecology of the area has produced its own solution, with reed beds assisting in dealing with any water pollution. Water soluble chemical contaminants would enter the pond in low concentrations and would be removed by biodegrading in the holding pond. The discharge arrangements to the lake would secure the settlement of fine particles.

- 6.91 The SUDS features proposed would require only a low level of future maintenance, which would be undertaken by the Appellants. The development would have no adverse impact on the hydrological and ecological value of the BHS.
- 6.92 There is no sound reason related to hydrology or drainage to support the rejection of the appeal proposals.

Landscape and visual

- 6.93 The Council maintain no objection to the appeal proposal on landscape or visual grounds, and neither does any statutory consultee. Objections on such grounds are made by third parties.
- 6.94 The landscape character of the appeal site has been assessed in accordance with the LI/IEMA Guidelines. The assessment (Document CD15) concludes that the site is in line with the description of the general area in Countryside Character Area 32, Lancashire and Amounderness Plain, and with the description in the Lancashire County Council character guidance. It is a landscape of a relatively flat and gently rolling plain, much of it farmland, with numerous marl pit field ponds and man made elements visible in the open landscape such as pylons, masts and road traffic. In the Fylde sub division, there are views to the Bowland Hills, as indeed is the case from and around the appeal site.
- 6.95 There is nothing in this landscape character which makes the site especially critical or sensitive. Both the published guidance and the specific site assessment show that a similar landscape quality is to be found throughout the area around Wesham and Kirkham. The appeal site lies on the edge of the settlement. It is influenced by the housing and other development to the north and south of Mowbreck Lane; and by housing and other buildings and noisy traffic on the busy Fleetwood Road, to the west. The proposals represent an extension to existing permitted development and are of smaller scale than Wesham Hospital and many other permitted or potential sites.
- 6.96 The CPRE in its January 2010 landscape character assessment (Document IP/12/A1) states that this site is “arguably one of the finest landscapes in the Fylde”. CPRE supports its claim by a landscape character assessment, but this is largely a descriptive document which makes limited reference to the published landscape character guidance. In fact, the site has been annotated by the Council as being “suitable for development” within the SHLAA assessment. There is nothing in that assessment to suggest that the steering group preparing it was concerned about the site being one of the best countryside landscapes in the Fylde, as suggested by CPRE. CPRE is in fact represented on that SHLAA steering group.
- 6.97 In any event, CPRE’s statement is without foundation. The existing landscape pattern of the area is not special, with thin, gappy or non-existent hedgerows, scattered, sometimes overgrown trees and shelter

belts, many with invasive non-indigenous species such as sycamore. The new planting proposed as part of the appeal development would improve the landscape character.

- 6.98 Views to the Bowland Fells would continue to be available in the area from the recreation ground adjacent to the appeal site and from higher land adjacent to Mowbreck Lane. Similar views are available from parts of Fleetwood Road further to the north, and better views are available from villages to the north and northeast, where the view is not interrupted by the silos, pylons and masts which are characteristic of the views from Wesham. The existing view from the appeal site would remain available from Footpath 11, which runs along the eastern edge of the site.
- 6.99 The proposed development would clearly bring changes to the area. There would be a change to tranquillity, but the site lies adjacent or close to the recreation ground, houses, the hospital rehabilitation unit, the ambulance and fire station and the busy Fleetwood Road. The site is neither entirely rural nor untouched.
- 6.100 There would be a beneficial impact on trees and hedgerows. Presently, the site hedgerows and vegetation are relatively poor, with a limited species palette. The trees on the site are mainly sycamore, with few really good specimens. The present position would be enhanced by the planting of extensive and attractive areas of indigenous woodland, scrub, hedgerows and wildflower grassland. In terms of public access, there is no footpath across the site at present, yet footpaths would be created, with an attractive new green pedestrian route linking the existing eastern footpath with Fleetwood Road.
- 6.101 The new woodland would also have a positive visual impact, forming an attractive green edge to the town in keeping with its landscape character, rather than the stark built edges exhibited by the current limit of development.
- 6.102 Medlar-with-Wesham Town Council claim that Mowbreck Lane forms a natural boundary between Medlar, with its pastures and tree lined brooks, and the more industrial and urban Wesham. The line has, however, already been breached by modern housing. The Town Council also claim that from Mowbreck Lane there is an open vista which can be appreciated by all, but in fact the hedgerow along the northern side of the Lane partly encloses many of those views. The Town Council claim that the view across the appeal site is the best countryside view in the Fylde, but, as indicated above, the view, while attractive, is neither particularly special nor unique.
- 6.103 The proposals shown on the Development Framework Plan are designed to respond positively to the features of the site. The objectives are to create a sensitive and high quality landscape, a significant landscape feature which would provide a rounding off to the town, and an edge to the site. The new planting is designed as a linear shelter belt, a new woodland which would visually separate the proposed housing from the

BHS and from the new wetland, and a new amenity area which would link Mowbreck Lane and Fleetwood Road. This new amenity area would be appropriate to its countryside setting, taking the form of the existing trees and shelter belts found elsewhere in the area. Growth of tree planting would enable this woodland to be functional within 5 to 10 years, and largely mature in appearance after 15 to 20 years.

6.104 Plan L17 within Document APP/3/P provides an artist's impression of the proposed biodiversity area, and Plan L15 provides an annotated cross section. Appendix 4 to the same document contains a draft Landscape and Ecological Management Plan, the final form of which could be approved as a reserved matter. The management of the site would be carried out by means of a site management trust, set up under the Section 106 obligation.

6.105 There is no sound landscape or impact on the character of the settlement reason why the appeal proposals should be rejected.

Sustainability, accessibility and highways

6.106 There is no objection to the appeal proposal from the County Council as Local Highway Authority, and the Council have withdrawn their own highway objection.

6.107 The JST (Document APP/0/2) commits the developer to

- a. Provision of a new ghost island priority controlled access junction on Fleetwood Road.
- b. Physical amendments to the roundabout junction of Fleetwood Road and the Wesham Bypass to enhance its performance and control vehicle speeds.
- c. Provision of two priority controlled access junctions on Mowbreck Lane and associated short lengths of pedestrian footway and dropped kerbs to assist pedestrians crossing Mowbreck Lane.
- d. Various small scale measures on Fleetwood Road to enhance safety, reduce vehicle speeds and improve visibility.

6.108 In addition, the following contributions are planned to encourage travel to and from the site by sustainable modes of transport, enhance accessibility and promote road safety through the executed Unilateral Undertaking (Document APP/0/9):

- a. A £150,000 contribution to divert existing bus services through the site providing a frequency in excess of one bus every 15 minutes during the peak day period Monday to Saturday.
- b. A £50,000 contribution to the provision and upgrading of bus stops and bus shelters within and local to the site.

- c. A £60,000 contribution to fund the installation of the signal controlled pedestrian crossing originally proposed as part of the Crossing Gates development.
 - d. A £15,000 contribution to the provision of a new pedestrian footpath on the western side of Fleetwood Road to provide connection between the Crossing Gates development and the position of the signal controlled pedestrian crossing.
 - e. A £40,000 contribution to the traffic calming to be provided on Mowbreck Lane.
 - f. An £18,000 contribution to the monitoring of the Travel Plan once the development is built and occupied.
 - g. A £5,000 contribution to the provision of an illuminated sign at a junction remote from the site.
- 6.109 The site would have direct pedestrian access from Fleetwood Road and Mowbreck Lane. Like the majority of roads in the area, Fleetwood Road has footways on each side of the carriageway which are lit by street lighting. Mowbreck Lane has a footway to the southern side only, but it is also lit by street lighting.
- 6.110 The site lies some 700 metres from the centre of Wesham and 1 kilometre from the Kirkham/Wesham railway station. There is a wide range of facilities within 1 kilometre, and an even wider range within 2 kilometres, as shown on Figure IH2 within Document APP/4/P.
- 6.111 Cycle access to and from the development would also be available from Fleetwood Road and Mowbreck Lane, and Figure IH3 shows the range of destinations available within 5 kilometres, the acceptable cycling distance envisaged by PPG13. The topography of Wesham is conducive to cycling, as it is reasonably flat.
- 6.112 In terms of accessibility by public transport, there are good bus services available within close proximity to the appeal site, but the contributions envisaged by the Unilateral Undertaking will make these services even more accessible. The bus services would provide a link to the Kirkham/Wesham railway station, which is in any event located only 1 kilometre from the appeal site. Although the railway station is not readily accessible to people with impaired mobility, the train operator using the station has in place a scheme which allows people with access related disabilities to contact the operator, who will provide a free taxi to take the person concerned to the nearest station which is readily accessible.
- 6.113 The railway station provides regular connections to Preston, Manchester and Blackpool. Connections to the West Coast Main

Line can be made at Preston for services to London, the Midlands and Scotland.

- 6.114 The main objections to the appeal development on highway grounds are made by WAG. They claim:
- a. that the capacity assessments of the existing highway network submitted in support of the development contain errors;
 - b. that the traffic survey data used in the highway analysis are out of date;
 - c. that the development would cause congestion on the local highway network;
 - d. that the proposed access junction on Fleetwood Road would be unsafe due to its proximity to the Fleetwood Road/Wesham Bypass roundabout; and
 - e. that the proposed access junction on Fleetwood Road would be unsafe due to its proximity to the pedestrian crossing of Fleetwood Road proposed as part of the Crossing Gates development.
- 6.115 The capacity assessments contained in the Transport Assessment (Document CD4) have been reviewed and approved by the Local Highway Authority. They are particularly robust because they are based on traffic surveys undertaken in May 2008 at which time a proportion of the Crossing Gates and the Wesham Hospital developments was occupied; despite that, as committed developments, the full amount of the traffic they were ultimately expected to generate was added to the survey data in the analysis. There was therefore an element of double counting of the traffic generated by the occupied units.
- 6.116 It is normal to accept traffic survey data for up to three years so long as allowance is made for actual traffic growth (as was done in this case). Fresh traffic surveys were, however, undertaken in May 2010. In fact, they indicate that traffic has reduced since 2008, perhaps as a result of the recession. The figures from the 2008 survey have continued to be used, however, providing an additional measure of robustness.
- 6.117 The capacity analysis does not indicate that the highway network is currently congested. With the highway improvement works planned to support the development, the Local Highway Authority are entirely satisfied that the development can be safely accommodated on the highway network. Neither the County Council nor the emergency services raised any concern about the impact on the fire and ambulance stations on Fleetwood Road. In a blue light situation, drivers move their vehicles out of the way of the emergency services.

- 6.118 The proposed access junction on Fleetwood Road would be situated 50 metres to the south of the Fleetwood Road/Wesham Bypass roundabout. It is recognised as good practice to provide a junction separation of at least the stopping sight distance for the speed of traffic approaching the junction. This section of Fleetwood Road is subject to a 30mph (48kph) speed limit. The Manual for Streets would require a stopping sight distance in those circumstances of 43 metres, which would be more than provided. The junction was the subject of a Stage 1 Road Safety Audit (Document CD6). Following consideration of that audit, measures were included to address the points raised. These are the subject of Figure IH7 (included within Document APP/4/P), which would be implemented as part of the off-site works committed by conditions.
- 6.119 The pedestrian crossing over Fleetwood Road proposed as part of the Crossing Gates development has not yet been constructed. It has therefore been agreed with the Local Highway Authority that it would be constructed 25 metres to the south of the originally planned location in order to avoid any conflict with the Fleetwood Road junction. The access junction would then be 60 metres north of the signal controlled pedestrian crossing, avoiding any interaction between vehicles queuing at the pedestrian crossing and the access junction even at the morning peak hour. The maximum vehicular queue length would not exceed 19 metres.
- 6.120 There is no sound sustainability, accessibility or highway reason why the appeal proposal should be rejected.

Conditions

- 6.121 The conditions contained in Document LPA/0/4 are substantially agreed between the Appellants and the Council, in the Council's case without prejudice to their opposition to the appeal.
- 6.122 In relation to condition 11, WAG argue that there should be a resurvey requirement to establish whether there are GCNs on the site after two and a half years. The position would, however, be covered on a continuing basis by the on-going monitoring regime to be applied by the Council under condition 9.
- 6.123 EA suggested in Document APP/0/5 that the GCN protection and mitigation steps outlined in Document CD11 (which is referred to in condition 11) should be extended to require the provision of exclusion fencing along the southern and eastern site boundaries to prevent the accidental access of GCNs to the development site. Such an extension could be delivered by the addition of the condition set out in Document APP/0/10. It is, however, unnecessary, because the small number of GCNs found in the 2010 surveys are located so far away from the appeal site that there is no reasonable likelihood of a GCN population being affected by the appeal proposals. To access the site from the south, a GCN would

need successfully to cross Mowbreck Lane, and much of the eastern boundary of the site would be with the proposed biodiversity area.

6.124 In relation to conditions 12 to 14, WAG ask for a requirement for annual monitoring of the water output from the development site and a report back to local stakeholders on the findings. The Appellants have, however, given comprehensive expert evidence on hydrology issues, and that evidence has not been challenged. The details of the drainage system and the method of intercepting any contaminant or particle would need to be approved in advance by the Council. It would be neither reasonable nor necessary to require continuing monitoring of these issues after development. There is no evidence to support the request.

The Unilateral Undertaking

6.125 The obligation which has been executed on behalf of the Appellants (Document APP/0/9) would provide a range of benefits in support of the appeal proposal.

6.126 Some 30% of the dwellings on the site would be provided as affordable housing (a total of 79 dwellings). 80% of those units would be social rented accommodation provided through a Registered Social Landlord. That is the type of housing which the Council consider to be the most appropriate within the Borough. The remaining 20% would be shared ownership units, again provided through a Registered Social Landlord.

6.127 The development would not be commenced until the Landscape and Ecology Plan and the Travel Plan had been approved by the Council.

6.128 The Undertaking also defines the level of the various contributions required (listed in paragraph 6.108 above) to improve the accessibility and sustainability of the proposed development.

General

6.129 Housing land needs to be released on greenfield sites outside settlement boundaries to provide an adequate supply of housing land. Such land is required urgently. That need must outweigh the conflict in relation to the appeal site with FBLP Policy SP2. No demonstrable harm would arise from the grant of planning permission in this case. There is no proper planning reason why the appeal development should not be permitted. Far from causing any material detriment, the proposal has significant benefits, which, when weighed in the balance, justify the grant of planning permission.

7. THE CASE FOR FYLDE BOROUGH COUNCIL

The material points are:

Compliance with the Development Plan

Settlement limits and countryside location

- 7.1 Wesham and Kirkham are considered together as a single area of built development in the FBLP. They have one joint settlement boundary on the proposals map (Document CD26A). The appeal site lies outside this settlement boundary, and the appeal development would therefore be contrary to saved Policy SP1 of the FBLP.
- 7.2 In fact, the appeal site lies within the countryside as defined on the proposals map. The countryside is protected for its own sake in both national policy (PPS1, PPS4 and PPS7) and in local policy. Saved Policy SP2 of the FBLP indicates that development in the countryside will not be permitted except in certain limited circumstances, which it is common ground do not arise in this case.
- 7.3 The Appellants argue that the settlement limits in the FBLP are outdated, because they were drawn up at a time when the then current Regional Planning Guidance indicated that new housing allocations were not needed in the area. However, Policy SP1 was amongst those policies saved by direction of the Secretary of State under the Planning and Compulsory Purchase Act 2004 in September 2007 and October 2008, and this was after the original publication of PPS3, the Government's national policy guidance on housing. In addition, the recent decision of the Secretary of State in the Queensway appeal (Document CD41 at paragraph 13) makes it clear that the Secretary of State attaches continuing importance to the saved settlement limits in the adopted Local Plan.
- 7.4 The appeal development would therefore be in conflict with both Policy SP1 and Policy SP2 of the adopted FBLP.

Scale

- 7.5 Saved Policy HL2 of the FBLP states that planning applications for housing will only be permitted when the development would (amongst other matters) be in keeping with the character of the locality in terms of scale.
- 7.6 Kirkham/Wesham has seen a higher level of development than comparable settlements in recent times, and the outstanding commitments in the area will continue to deliver dwellings to meet local need.
- 7.7 The dwelling stock of Kirkham/Wesham at the time of the 2001 Census was in the region of 4,200. Since that time, 223 dwellings

have been delivered, which represents a growth in stock of approximately 5% in a period of nine years. Delivery of the outstanding planning permissions (232 units) over the next five years would represent a combined growth of 11% over a period of fourteen years. The addition of the appeal development (264 dwellings) would, if delivered in five years, represent a cumulative increase of around 17% over fourteen years. That is a significant level of increase over a relatively short period.

- 7.8 The reason for refusal relating to scale refers only to Wesham. The Council have not argued against the proposition that in planning policy terms the relevant settlement is Kirkham/Wesham, but that does not mean that consideration of scale issues in respect of the separate locality of Wesham should be ignored. Looked at purely from the standpoint of Wesham, the appeal development alone would add some 16% to the existing housing stock.
- 7.9 The future scale and location of housing in Kirkham/Wesham and in the Borough of Fylde as a whole is still to be determined through the LDF. That is the appropriate vehicle for determination of that strategic question, following full public engagement on key decisions, including consideration of the necessary infrastructure to sustain the level of growth involved. Permission for this appeal proposal would, when considering its scale in the context of the locality of Wesham, be prejudicial to that process. It would therefore be contrary to criterion 2 of Policy HL2 of the FBLP.
- 7.10 The SHLAA has identified a number of brownfield sites within Kirkham/Wesham which can continue to come forward in line with FBLP Policy SP2. This current supply of deliverable housing land in the local area must be borne in mind in drawing conclusions on the weight to be given to the need for the appeal development, which is in clear conflict with FBLP Policy SP2.

Loss of agricultural land

- 7.11 Saved FBLP Policy EP22 indicates that development will not be permitted which would involve the permanent loss of BMV agricultural land where the development could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas, or on poorer quality agricultural land.
- 7.12 The land which is the subject of the appeal was classified as Grade 3b under the current provisional ALC, but that classification is considered to be outdated. The rotation of the crops grown on the appeal site in the years between 2000 and 2010 is typical of the rotation found on more flexible ALC Grade 2 or Grade 3a land. The information provided on yields over the same period shows yields at the upper end of the scale for those crops across all Grades and Sub-grades of land.

- 7.13 A detailed classification exercise of the agricultural land within the appeal site has therefore been carried out on behalf of the Council for the purpose of the appeal. This produced a conclusion that 5.2 hectares of the land falls within Grade 2; 7.3 hectares within Grade 3b; and 1.2 hectares within Grade 4.
- 7.14 The differences between these gradings and those found by the Appellants (set out at paragraph 6.37 above) are not as surprising as they might seem. The appeal site is a relatively difficult holding to assess, because there is a patchwork quilt of different soil types within the same fields. Different sampling points have been used by those undertaking the grading exercise for the Appellants and for the Council, and this fact has given rise to some of the non-conforming results. It is accepted that some of the land classified on behalf of the Council as Grade 2 is marginal as between Grade 2 and Grade 3a. On the other hand, the Appellants' evidence includes a more substantial deduction for wetness, an issue which is arguable.
- 7.15 It is accepted that the Appellants' witness has undertaken a greater number of samples than the number carried out on behalf of the Council. In those circumstances the Council would not seek to quarrel with the suggestion that the Appellants' figure of some 3 hectares of BMV land within the appeal site may well be nearer the mark than their figure of around 5 hectares of such land.
- 7.16 It is also accepted that pockets of high grade land of a hectare or less could not be separately farmed. If there is a field with a small area of Grade 2 land within an area of Grade 3b land, it would normally be farmed as Grade 3b.
- 7.17 The question whether such BMV land as exists within the appeal site could be farmed as BMV land does not, however, alter the fact that, if development of the land took place, such BMV land would be lost. The possibility or otherwise of farming such BMV land separately goes to the weight to be attached to the loss of such land. It remains the case that Mr Pickervance has been able to grow crops and achieve yields consistent with BMV land on the appeal site.
- 7.18 The same level of development could not be delivered on a single equivalent previously developed site within the settlement boundaries of Kirkham/Wesham, but, as the SHLAA shows, there is some scope for further housing development within the settlement boundaries. The appeal development would involve the loss of some BMV agricultural land, and to that extent it would be contrary to saved Policy EP22 of the FBLP.
- 7.19 Given that the appeal proposal would be in conflict with saved FBLP Policies SP1, SP2, HL2 and EP22, it is necessary to go on to consider whether any of the material considerations advanced by

the Appellants would justify determining the appeal otherwise than in accordance with the Development Plan.

Material considerations

National planning policy guidance

7.20 It is of course accepted that relevant national planning policy guidance is a material consideration in the determination of this or any planning appeal; but it is also the case that the revocation of the RSS is a material consideration, as is the CLGGN (see paragraph 4 of Document CD25 and the note which precedes it).

The CLGGN of 6 July 2010

7.21 The question of the weighting of the CLGGN in relation to the planning guidance provided in PPSs is not germane. The CLGGN is not to be seen as in conflict with the content of any PPS. It simply adds to the background against which proposals are to be determined. It is an additional factor to be taken into account.

7.22 The CLGGN makes it clear that Local Planning Authorities have three options in respect of how they approach the issue of their housing requirements following the abolition of housing targets in the RSS:

- a. they may decide to retain the housing targets as set out in RSS;
- b. they may decide to replace those targets with Option 1 figures;
or
- c. they may decide to review housing targets.

7.23 The use of the word “may” in relation to the choices available emphasises that the option to be selected is left entirely to the Authority in question. Authorities are given an unqualified choice in that the CLGGN does not seek to express any view as to the circumstances in which a Council should favour one option rather than another. The role of the decision-maker in an appeal such as this is not to review the option which has been chosen, but to work on the basis of the choice which has been made. An Authority which has chosen the option of review is not to be criticised at this point in time for not having any review figures yet in place, or for that matter for not having presently assessed how the choice of this option will enable delivery of a five year housing supply.

7.24 There is nothing in the CLGGN which provides that, if an Authority decides to proceed via the review route, revoked RSS targets or Option 1 figures should continue in use as some kind of transitional arrangement or provisional position until new figures emerge from the review. There would be nothing to stop an Authority adopting that position if it so wished, but it would defy logic if an Authority

which had decided not to roll RSS figures forward should find itself in the position that it remains bound by those figures in the meantime or should be in a situation where it has to attach significant weight to centrally imposed targets which it has legitimately rejected as being its way forward.

- 7.25 The Conservative Party Green Paper (Document APP/0/3), which was referred to by the Appellants, and which was published before the election, cannot conceivably be regarded as a statement of the Coalition Government's policy. Insofar as it suggested an expectation that Option 1 figures might be used provisionally until new Local Plans were in place, it is in sharp contrast with the CLGGN, which expresses no expectation that Option 1 figures will play any provisional role in the case of Local Authorities which decide to adopt the course of reviewing their housing targets.
- 7.26 The Inspector in the Ballam Road appeal (Document LPA/0/1) was correct in reaching the conclusion that the Secretary of State's position was not to be interpreted as forcing Local Planning Authorities to have numerical targets in place now (paragraph 71). That is borne out by paragraph 13 of the CLGGN, which indicates that, while an Authority will still be required to maintain a five year land supply of deliverable sites, such supply will need to reflect any change to the overall local housing ambition. The supply cannot reflect that change until the local housing ambition is known.

The option chosen by the Council

- 7.27 In the present case, the Council have rejected the options of rolling forward the revoked RSS target or the Option 1 target, and have chosen the option of reviewing their housing targets by way of developing a housing figure based solely on Fylde's needs. That was the position adopted by the Council on 5 August 2010. That was a swift and timely response to the revocation of the RSS.
- 7.28 Given that the Council are not required to have, and do not have, a numerical housing target in place at present, the position is that the situation of housing shortage which it is acknowledged exists in the Borough has to be regarded as at present unquantified. This was the Inspector's approach to the matter in the Ballam Road decision (paragraph 89). It is not for the appeal process to assume the amount of new housing required in the Borough, but for the Council to carry out the intended review (paragraph 80). In these circumstances it also follows that quantification of the relative importance of the proposed development in respect of its contribution to housing land supply is not possible (paragraph 81).
- 7.29 This reasoning is all of a piece with the approach taken in the addendum to the Council's IHP (at the rear of Document CD31) insofar as it states that in the absence of RSS guidance a five year supply cannot be determined until a local housing target is established. This is not the same as saying that there is a five year

supply. The Council have never claimed that there is. It is also not to deny the requirement of national policy that there be a five year supply. What is being said is that, in the absence of the RSS target and in the current absence of an alternative local Fylde figure to take its place, it is impossible to carry out the requisite exercise.

The weight to be attached to housing supply assessments based on the revoked RSS requirement

- 7.30 In those circumstances, the question arises what weight is to be attached to housing supply assessments based on the revoked RSS requirement. The Council's position is that little weight should be attached to an assessment on this basis. In the Queensway decision (Document CD41), the Secretary of State plainly gave little weight to the RSS target of the provision of 306 dpa and more weight to the proposal's conflict with FBLP Policy SP2. That conclusion was reached at a time when the intention to revoke the RSS had been announced, but revocation had not taken place. If that approach to weighting is correct, it should follow that supply assessments based on a target which has now been revoked and which the Council do not intend to roll forward should command even less weight. That approach is also consistent with the reasoning of the Inspector in the Ballam Road decision, who considered that, notwithstanding a housing shortage, housing need could not be elevated to a position where it could be regarded as "overriding or compelling" (paragraph 115). The same is true of the housing supply position which existed in the case of the Queensway decision.
- 7.31 There is also the question of whether the evidence base for the RSS remains up to date. It does not. It has already been overtaken by later household projection figures and more recent still 2010 population projections which show a significant decrease in anticipated population growth compared with previous population projections and which, being 2010 figures, must necessarily post date the Fylde Coast Housing Strategy 2009 upon which the Appellants place some reliance.
- 7.32 The Fylde Coast Strategic Housing Market Assessment and the Fylde Housing Needs and Demand Study Update were both finalised after the Option 1 RSS figures were prepared. The most recent population projections for the Borough suggest an increase of 4,900 people over the 18 years between 2008 and 2026, rather than the previously suggested increase of 5,800 in the 10 years between 2006 and 2016. The projected population in 2026 is now 81,000 rather than 88,200. Against that, the SHLAA has identified sites within settlement boundaries capable of delivering approximately 2,000 dwellings. These can continue to come forward in line with adopted Development Plan policies in advance of a plan led approach to amending settlement boundaries to meet longer term need. In these circumstances the weight to be attached to RSS

figures would necessarily diminish in any event even if one were to leave out of account that those figures have now been revoked.

- 7.33 It is nothing to the point that review figures may go up or down. That line of argument provides no justification for seeking to place significant weight on RSS figures. It simply fortifies the Inspector's comment in Ballam Road that the matter was not for her to assume but for the Council to review (paragraph 80).
- 7.34 The Housing Needs and Demands Study Update identified the need for affordable housing in Fylde as 568 dpa. Clearly the extent of that demand is so acute that there is no possibility of meeting the full demand when the housing target in the revoked RSS was only 306 dpa overall. The Council's IHP expects, in the case of developments in excess of 14 dwellings, the delivery of 30% of the units as affordable housing. On the basis of the RSS target figure, this would suggest the provision of 100 affordable dpa.
- 7.35 Kirkham/Wesham accounts for around 11% of the annual shortfall of affordable dwellings, which would suggest a target for that area of 10 to 15 dpa out of the realistic overall annual target for the whole Borough of 100 dpa. There are 122 affordable units still to be delivered in Kirkham/Wesham on the Derby Road and the Crossing Gates sites. This would more than meet the target for Kirkham/Wesham during the period within which specific and deliverable affordable housing targets are developed for the whole of the Borough through the LDF process. Other parts of the Borough currently have a level of supply that will deliver a far lower proportion of their local need.

The Council's Interim Housing Policy

- 7.36 The Council's IHP of 2008 was subject to public consultation and sustainability appraisal. It thus avoided the twin evils which paragraph 6.4 of PPS12 seeks to guard against. It is also a document which the Ballam Road Inspector found to "chime" with policies SP1 and SP2 of the FBLP (paragraph 76). In such circumstances the Inspector in that decision was perfectly entitled to conclude that the document should be given significant weight as a material consideration (paragraph 73).
- 7.37 The amendments made to the 2008 IHP by the 2010 document were made by way of immediate response to the revocation of the RSS. They were not subject to public consultation. But whatever effect that might have on the weight to attach to the 2010 amendment, it cannot affect the weight to be attached to the 2008 document. It is accepted that the IHP is not a formal Supplementary Planning Document, but it represents a re-endorsement of the Development Plan policy to focus new development within settlement boundaries (as recognised in paragraph 108 of the Inspector's decision in the Ballam Road decision).

Prematurity

- 7.38 The Council adopted their Local Development Scheme in 2007. It promised the preparation of three DPDs – a CS, a SADPD and an updated proposals map. The original plan was for the CS to be adopted by July 2010, but to date, no progress has been made with the formal process of preparing any of these DPDs. Significant work has, however, been carried out on the preparation of the supporting evidence base. A consultation draft of the SHLAA was published in February 2010 (Document CD34). It includes a wide choice of potential settlement extension sites so as to provide the widest possible range of options for the Council in the LDF process. A Housing Land Schedule was produced in March 2010 (Document DC36). A Fylde Coast Strategic Housing Market Assessment was finalised in April 2008 (Document CD39), and a Housing Needs Study was finalised in January 2008 (Document CD40). The Fylde Coast Housing Strategy was produced in 2009 (Document CD37).
- 7.39 There remains uncertainty about the timing of the publication of a consultation draft of the CS, however, not least because of possible further changes in the national planning regime. A consultation draft of an issues and options document could be available in three to four months. The Council's original timetable allowed two years four months between the publication of the original consultation draft of the CS and its adoption. That would take the Council into 2013 before adoption, but that was under the former procedural regulations. The process could be achieved more quickly now. Adoption of the CS could be achieved by August 2012.
- 7.40 A CS can deal with strategic sites, but there is no certainty that the CS would deal specifically with the appeal site. It will set out the overall spatial vision and distribution of housing development. It is accepted that, if the future of the appeal site is dealt with in the SADPD, that would not be adopted until around January 2015.
- 7.41 The Council's intention is for the local housing ambition to be set out through the emerging LDF based on a full consideration of all the most up to date evidence which has been gathered.
- 7.42 Prematurity matters are to be judged by reference to paragraphs 17 to 19 of General Principles, the companion document to PPS1. Paragraph 72 of PPS3 is also relevant but this is not a case where the Council rely "solely" on the ground of prematurity. The scale of the development proposed is significant enough to engage the operation of the principle of prematurity. Since 1991, a total of 908 dwellings has been delivered in Kirkham/Wesham, at a rate of about 48 dpa. Using this level of completions as a sensible benchmark for the future, the addition of the 264 dwellings proposed for the appeal site would represent about a 5.2 year supply in its own right, or a supply of around 10 years when considered with the outstanding completions already authorised for Kirkham/Wesham. There is no requirement for there to be a local

policy document in existence before a prematurity objection is raised; simply that a DPD is being prepared, as is the case in the present situation.

- 7.43 Given the extent of the appeal proposal, particularly when seen against the background of other recent permissions in the area, the approval of the appeal development would prejudice the DPD by predetermining decisions about both the scale and location of development in the area. Approval would exercise the greatest influence over the Council's production of both their CS and their SADPD.
- 7.44 It is accepted that there is no "early" prospect of submission of a CS for examination. In such circumstances the guidance in paragraph 18 of General Principles is that refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question. This guidance necessarily recognises by use of the word "seldom" that there will be rare cases where, notwithstanding such delay, refusal on prematurity grounds will be justified. By any measure the present circumstances are unique, with the upper tier of the Development Plan having been abolished overnight at a stroke. The effect of that can only be to produce increased emphasis on local planning documents. The development proposed in this case would clearly prejudice the outcome of the LDF process by predetermining decisions about the scale and location of development in the area.
- 7.45 In relation to delay, the future of the site is likely to be made clearer one way or the other at CS stage without necessarily having to await a later SADPD. It is also the case that the Council will have to clarify their position on a new housing target sooner rather than later in the process of production of the CS so that this figure can then be exposed to public scrutiny.
- 7.46 The consideration of the Council's LDF documents is also the relevant stage at which the future of the appeal site in terms of its agricultural use should be established. Paragraph 29 of PPS7, makes it clear that it is for Development Plans to include policies which identify any major area of agricultural land that is planned for development. The loss of such a major area of agricultural land through a Section 78 appeal would be contrary to that guidance.

The impact on the viability of Mowbreck Hall Farm of the proposed development

- 7.47 On behalf of the Council, the impact of the loss of the appeal site on the viability of Mowbreck Hall Farm has been assessed. The figures produced differ somewhat from those worked up on behalf of the Appellants (which are set out in paragraph 6.51 above). The Council's figures suggest an annual loss on the overall pre rent and finance surplus of £19,702 (from £139,091 to £119,389) with the

reduced farmable area. Those figures were prepared using the Scottish Agricultural Farm Management Handbook (which is also relevant and appropriate for use in the north of England). They were also worked out on the basis of a milking herd of 160 head (the actual current figure) reduced to 147 to reflect the reduced area of land. They also assume that the present mix of farming activities would continue at a pro rata reduced level across the reduced area, although it is accepted that the farmer might choose to change the mix, concentrating on the most profitable activities of the farm.

- 7.48 In the event, the conclusion reached on the basis of the evidence provided both by the Appellants and the Council is that, while the loss of the appeal site would reduce the profitability of Mowbreck Hall Farm, it would not affect the viability of the holding.

The overall balance

- 7.49 The Appellants' core case is to the effect that national policy in relation to the provision of a continuous and sufficient supply of housing land and the particular requirement flowing from that policy for there to be a five year supply of deliverable sites (together with policy in relation to affordable housing) provide the bases for the conclusion that settlement boundary policy in this case is to be overridden.
- 7.50 For their part the Council do not contend that a five year supply of deliverable sites can be demonstrated. It could hardly be otherwise when the RSS housing target has been abolished and there is presently no alternative locally formulated replacement figure. That in turn brings into play the favourable treatment provision of paragraph 71 of PPS3.
- 7.51 It is accepted that the Council have no objection to the proposal based on urban form, character, highways or landscape issues. What the Council do say, however, is that the lack of a demonstrable five year housing land supply does not outweigh Development Plan conflict in present circumstances given that: settlement boundaries should still command weight; the housing shortage should be regarded as unquantified; supply assessments based on revoked RSS targets should carry little weight; the housing need case is not considered to be either compelling or overriding - it is not so urgent that it should be taken out of the LDF process; and the abolition of the RSS and the increased emphasis on local planning raise prematurity concerns.
- 7.52 The approval of this scheme through this appeal would be prejudicial to the outcome of the LDF process, and deprive local communities and stakeholders of the opportunity to participate in crucial decisions about the future scale and location of development in their area. Neither the provision of affordable housing (useful though the contribution may be) nor the provision of the

biodiversity area proposed by the Appellants serves to tip the balance the other way.

8. THE CASE OF THE WESHAM ACTION GROUP AND MR DAVID PICKERVANCE

The material points are:

- 8.1 WAG was set up early in 2009 following a meeting called by Wesham Town Council to discuss the appeal application. The sole purpose of WAG was originally to oppose the appeal application, but increasingly, in the light of the Government's localism agenda, WAG hopes to take a continuing interest in local Wesham issues. WAG has a core membership of 13, but is assisted and supported by members of the wider local community. That support has been demonstrated by the signatures gathered on a petition signed by 660 local residents, which was submitted to the Council when the Council were considering the application; by the support for town meetings which have been held to share information about the appeal; and by the response to various successful fundraising activities held by WAG. Meetings of WAG are held on a weekly basis, and decisions are taken by a majority vote of the core membership.
- 8.2 David Pickervance has farmed at Mowbreck Hall Farm for 28 years. He is the first tenant of a three generation succession tenancy. All crops are farmed under the FABBL (Farm Assured British Beef and Lamb) farm assurance policy covering land treatment, seed treatment, harvesting and storage, and the farm is also a FABBL approved producer of beef and an approved producer of milk by CMI, the national farm assured standards regulator.

Planning and housing

- 8.3 The RSS has been revoked, and its housing targets are therefore irrelevant. It is for Local Planning Authorities now to establish the correct level of housing provision for their areas. At present in Fylde, there is no current housing target by which a five year land supply requirement can be determined. The Council have, however, adopted an IHP, and that has been amended to reflect the revocation of the RSS. It is intended to guide planning decisions until the Council's LDF is adopted. It provides for residential development to be allowed on small previously developed sites within settlement boundaries, and for the acceptance of development within gardens, playing fields, allotments and similar sites.
- 8.4 The Council responded quickly and appropriately to the revocation of the RSS so that planning applications could continue to be addressed. Taking a major decision such as that on the appeal application before the LDF has considered the full range of possible future sites for housing development would, however, deprive local communities of the opportunity to participate in important decisions about the future of

their area.

- 8.5 The appeal site is in the countryside, outside the settlement boundary. Its development would destroy BMV agricultural land. The Appellants have failed to show that there is no alternative area of previously developed land within settlement boundaries or an area of poorer quality agricultural land which could be developed in preference to the appeal site to meet any need for additional homes. In those circumstances FBLP Policy EP22 is not met, and the appeal site should therefore not be released for development. Building on the appeal site would extend the boundaries of Wesham and irrevocably change the character of the area.
- 8.6 Wesham had around 1,400 dwellings before the Derby Road and Crossing Gates developments were approved. Those two approvals plus this development would bring the total of dwellings in Wesham to 1,981, an increase of almost 42% in just a few years. Such an increase respects neither the scale nor the character of the area. It is accepted that the FBLP envisages growth for Kirkham/Wesham, but Wesham is experiencing more of that growth than it can sustain with the infrastructure presently available.
- 8.7 Before the RSS was published in 2008, the Council had been working successfully to the housing target set in the Joint Lancashire Structure Plan, which required an average completion rate of 155 dpa. In fact, the Council were well ahead of the target set of 2,325 dwellings for the period between 2001 and 2016. Only a further 166 dwellings were required to meet the target for the whole of the period to 2016. As at March 2010, there were 484 dwellings under construction in Fylde, with a further 538 dwellings which had the benefit of planning permission. There was therefore a significantly greater supply of permitted dwellings than was necessary to meet the last surviving target for the local area.
- 8.8 In fact, there is currently a potential supply of housing sites to provide a 10.8 years supply of housing land at a rate of 155 dpa. Even at 306 dpa, there is a potential 5.48 years supply. These figures have been obtained from the Council's Housing Land Availability Schedule (Document CD36) and from information on the Council's website regarding permissions granted and applications submitted since 1 April 2010. It is accepted that changes which have occurred after 1 April 2010 should not strictly be included in these figures, particularly as regards applications which have been submitted but have not yet been determined.
- 8.9 Those figures should also be viewed, however, against the background of current market conditions. There is presently no demand for housing in the area. The lack of demand has been reflected in the fact that the Council have decided to build a care home rather than the 47 dwellings originally planned to be constructed on the site of the former Council offices in Wesham, and the fact that only 73 of the 210 houses approved at Derby Road have been completed in the last three years. To reflect current market conditions, it would be sensible for any annual target

eventually agreed to be delivered by way of increased building later in the plan cycle. That would also allow time for further brownfield sites to become available to fulfil the need for housing land. There is a potential for 935 dwellings to be provided on a range of redundant brownfield employment sites listed in the SHLAA (Document CD34), and it is likely that there will be brownfield land which can be released at the BAE Systems site at Warton following the Strategic Defence Review. There is also the potential for the construction of 4,266 dwellings on Fylde land at the M55 hub.

- 8.10 In fact, the SHLAA (Document CD34) shows in Table 6 on page 13 that there is scope for very significant further housing expansion across Fylde once proper consideration can be given to settlement extensions. The figure of 919 units for Wesham (interestingly separated from Kirkham in this document) includes 264 units from the appeal site. If this appeal is allowed, the effect would be to give preference to this site over the others included in that list which deserve fair and equal consideration. As paragraph 5.11 of the text below Table 6 indicates, this implies significant choices between competing sites, which should be debated during the formal LDF process.
- 8.11 The affordable housing envisaged as part of the appeal development is not needed in Wesham. The need for affordable housing is much higher in other parts of the Borough. New social housing in Wesham is being allocated to people with no connection with the area. This was clear from information obtained during the house to house discussion which WAG had with local residents regarding the scheme.

Infrastructure

- 8.12 Wesham has grown over the last 40 years, but the amenities the town provides have declined, so much so that it relies on Kirkham and destinations further afield for basic services. Kirkham is a separate town, with a separate Town Council. While the Local Planning Authority might regard Kirkham/Wesham as one entity in pure planning terms, it is clear that residents of the two communities do not agree.
- 8.13 While it is accepted that the former PPS6 has now been replaced by PPS4, WAG had assessed the infrastructure of Wesham against the standards in PPS6, and considers that it demonstrates a lack of affordable public leisure facilities, a very limited range of shops, and places heavy reliance on the facilities of other communities such as Blackpool, Preston and Kirkham. There is also a reducing retail range available in Kirkham.
- 8.14 The extra population generated by 264 additional dwellings would place an unacceptable burden on Wesham's existing services, particularly when the additional population generated by the already approved developments at Derby Road and Crossing Gates is also taken into account. Wesham faces population growth from those developments and the appeal development of 39% if the Appellants' figures of 2.21 people per household are used, or 43.1% if the Census finding of 2.42

people per household is applied. In either case, this is a large increase.

- 8.15 PPS6 suggests that a town which is in decline should be strengthened by the Local Planning Authority, but this has not happened in Wesham. There has been little or no investment in the community in terms of industry, nor any obvious initiative or incentive to encourage the growth of retail, service or manufacturing provision within Wesham. If the proposed appeal development is to become part of the community, then the town of Wesham needs to be able to serve the whole community. In reality, however, the appeal development would not be served by Wesham. Residents would spend their income in Kirkham, Blackpool or Preston. It is accepted that Blackpool and Preston are the higher level local shopping centres in the area, and that this is recognised in the FBLP.
- 8.16 Applying the health check contained in Section 4 of PPS6 to Wesham produces a result which strongly indicates that the town centre of Wesham cannot adequately support an increased population. The two additional developments which have been approved for Wesham in recent years have not prompted a revival in the town centre, and if this appeal development were to be approved it would not do so either. It is not suggested that it would harm the viability and vitality of the town centre, but there is no evidence that it would assist it.
- 8.17 There are limited employment opportunities in Wesham, and occupiers of the appeal development would almost certainly work outside the immediate local area. The development would therefore generate additional travel, and would not be sustainable.
- 8.18 Off peak trains are limited – hourly to Blackpool and Manchester and two hourly to Preston. This would contribute to the creation of a dormitory community, with many residents who would commute to employment. The railway station provides only eight parking spaces and three drop off spaces, although it is accepted that most rail users from this development would probably walk to the station. There is no access to the station for people with mobility difficulties. Bus services are also limited outside the morning and evening peaks. Cycling through Wesham is precarious, because the narrow streets require that vehicles are parked partly on pavements, and even so vehicles often have to halt to allow others from the opposite direction to pass. Parking on pavements also causes difficulties for pedestrians.
- 8.19 There are two doctors' surgeries to serve the area, both of them located in Kirkham, with ten doctors between them to serve 19,376 registered patients. With a maximum doctor to patient ratio of 1:2,000, it can readily be seen that available uncommitted GP access is limited. It is accepted, however, that there has been no objection to the appeal application from either of the medical centres or from the Primary Care Trust.
- 8.20 Since the two new developments began to be occupied, crime levels in Wesham have risen, although it is not suggested that residents of the

new developments are directly responsible. Additional local residents would stretch the resources of the emergency services even further.

Agricultural considerations

- 8.21 Loss of the appeal site would not only affect the crop income of Mowbreck Hall Farm but also its income from livestock. The farm is located in a Nitrate Vulnerable Zone. As a result of the limits this places on the farm in terms of manure use, the approval of the development would result in a necessary reduction in the livestock headcount. WAG suggests that the necessary reduction would amount to 30 head, which (with other attendant changes) would result in a loss of £35,743 from the annual pre-rent and finance surplus of the pure farming business. A loss of that scale could impact on the continued operation of the holding, and certainly on future investment decisions. In response to questions put in cross examination it was accepted, however, that the loss of 14 hectares of land within the Nitrate Vulnerable Zone would reduce the nitrogen (slurry) allowed to be spread on the overall holding from 35,610 kilograms to 33,570 kilograms. The reduced allowance would still be sufficient to accommodate 200 cows and a further 110 livestock (who together would be estimated to produce 24,866 kilograms) on the holding.
- 8.22 The land within the appeal site was assessed as Grade 2 and in parts borderline Grade 1 by two agronomists who visited the site during 2009. The land therefore ranks as BMV agricultural land. It is thus protected both by PPS7 and by FBLP Policy EP22. Neither document includes any requirement that in order to justify protection BMV land must be discretely farmable. Both agronomists who had produced the reports of 2009 gave evidence, and both accept that they had not undertaken a grading exercise of similar complexity and depth to those undertaken on behalf of the Appellants and the Council. Both accept that greater reliance should be placed on the grading assessments carried out for the Appellants and the Council.
- 8.23 The actual area of the land capable of being used for growing crops which would be lost to Mowbreck Hall Farm is 9.24 hectares. Thus the loss of 3 hectares of BMV land (even if that figure is correct) is more than 30% of the total land lost. WAG considers the loss of any area of BMV land to be significant, but the 10 hectares lost in the Queensway case represented a significantly smaller proportion of the 64.8 hectares overall affected by that proposal.
- 8.24 The suggestion of significantly variable quality across the agricultural land within the appeal site is also questioned. If there really were a patchwork quilt of different qualities across this land, the crops produced would be very uneven. Neither the photographs produced (Document WAG/7/A1) nor the view of the crops currently on the land obtained on the site visit bears out this alleged difference of quality.
- 8.25 There is increasing international concern about global food security and the importance of soil protection. The recent Defra publication

“Safeguarding Our Soils” (Document CD79) makes clear the Government’s commitment to the better protection of agricultural soils. This has not been addressed by the appeal proposals, which are therefore contrary to Government policy.

- 8.26 The reduction of the productive agricultural capacity which the loss of the appeal site would involve would also run counter to the Government’s aim to improve food security in the interests of national security. In “Food 2030” (Document CD53), the Government have acknowledged the importance of food production in the UK. It is not suggested that the retention of the appeal site alone is critical to UK food security, but the continued loss of BMV land to housing would eventually result in a food security issue for the nation. The loss of this area of BMV land would set a precedent which could be used to justify other such losses.
- 8.27 The hydrology assessment of the site seems to make no allowance for the loss of crops which would occur on the appeal site. These crops currently take up a very substantial quantity of water. The hedges on the site also use significant amounts of water. Despite these factors, Medlar Brook is surcharged for five and a half months of the year. Assured access to Medlar Brook for drainage maintenance is thus of vital importance. Access from Fleetwood Road across Field 7567 is not assured, because the field is only held on a yearly basis. If the track access from Mowbreck Lane is lost (as is proposed by the Appellants), it would not be possible at certain times for Mr Pickervance (with whom the responsibility for maintenance rests) to access the watercourse across the Marsh with the necessary heavy equipment. A previous farmer of the land lost equipment in the 1960s when trying to cross the Marsh with a tractor. Times of heavy rainfall are the very times at which the maintenance of Medlar Brook needs to be assured.
- 8.28 Bringing development closer to farmland also causes additional problems. Mowbreck Hall Farm lost 2 hectares of land to the development at Derby Road. The 5.6 hectares of land next to that area subsequently became almost impossible to farm. Crops which were grown were destroyed; grass grown for silage proved to be contaminated by rubbish; and when milking cows or cows in calf were grazed on this adjoining land young people chased them around the fields. From previous experience, it is clear that more land will be lost or prejudiced than any area of land taken for the development.

Highway Issues

- 8.29 It is not the case that a significant proportion of the Derby Road and Crossing Gates developments was occupied in May 2008 when the Appellants’ initial traffic counts were undertaken. It is therefore not the case that there could have been a double counting of traffic from these developments. This casts doubt on the accuracy of the modelling used to justify the highway arrangements. It is accepted, however, that the Local Highway Authority consider that committed development was properly taken into account in the preparation of the transport

assessment. It is also accepted that the surveys undertaken for the Appellants in 2008 and 2010 were independent surveys.

- 8.30 The use of 2001 Census data in the transport assessment represents historic information, now nine years out of date, although it is recognised that this is a nationally accepted source and that the raw figures have been updated by the appropriate TRICS rates to cover the intervening period.
- 8.31 Wesham's road network in general is unsuitable for more vehicle loading and has its own existing safety issues. The amount of on-pavement parking which can be observed in the area is testament to this. The B5192/A585 roundabout can become congested for long periods during rush hour. It is accepted, however, that the Local Highway Authority are satisfied that the development can be accommodated on the existing road network with the improvements proposed as part of the development.
- 8.32 The proposed access junction to the appeal site on Fleetwood Road would be unsafe because of its proximity to the Fleetwood Road/Wesham Bypass roundabout and its proximity to the pedestrian crossing of Fleetwood Road proposed as part of the Crossing Gates development. It is accepted that this is not a view shared by the Local Highway Authority.
- 8.33 The Road Safety Stage 1 Audit raises many issues regarding the access to the proposed site. The audit was conducted outside rush hour, and it was not comprehensive. There were low traffic volumes at the time of the audit, and only a limited time on-site was available to view all potential accesses. Such a limited audit could not take into account varied road and weather conditions. There was no consideration of equestrian, cyclist or mobility impaired use of the highways, of parked vehicles causing line of sight issues, or of potential conflicts with emergency service vehicles. There is equestrian use of both Fleetwood Road and Mowbreck Lane. There is a fire station and an ambulance station on Fleetwood Road close to the junction with Mowbreck Lane. It is accepted that the Road Safety Audit was carried out in accordance with the relevant standards, but it is considered that some relevant issues were not addressed.
- 8.34 While the spine road through the appeal site is proposed to be widened to 6.5 metres to accommodate bus services running through the site and on to Mowbreck Lane, there is no proposal to widen Mowbreck Lane, which varies in width from 5 metres to 5.5 metres. Mowbreck Lane also includes sweeping bends with high hedgerows and is used by various types of slow moving traffic including farm vehicles, municipal and delivery vehicles, and vehicles taking mobile homes to a site which is accessed via Mowbreck Lane.
- 8.35 The current bus stop on Fleetwood Road nearest the proposed site exit also acts as a bus terminus, with one or sometimes two buses parked there for various periods of time. G-Line holiday coaches also use this

bus stop to load and unload passengers on Fleetwood Road. PPG13 lays emphasis on safety in relation to highways. The proposed highway changes would give rise to genuine safety concerns. It is, however, recognised that the Local Highway Authority have confirmed that they are satisfied with the appeal proposals on highway grounds including grounds of highway safety.

Ecology and landscape

- 8.36 WAG undertook a long term survey of ecological matters in connection with the appeal site in 2009 and submitted interim reports during March and April 2009. A final report was submitted to the Council, to the County Ecologist and to Natural England on 10 August 2009. WAG believes that its findings should be viewed as more accurate than the studies provided by the Appellant, which represented “snapshots” taken on separate days rather than ongoing studies.
- 8.37 The County Ecologist wrote on 2 February 2009 to express concern over the potential impact of the proposed development on the BHS in relation to bats, nesting birds, water voles, hedgerows and hydrology. Similar questions were raised by the EA on 30 January 2009. Some of the issues raised still remain unanswered. The EA requested an indicative species list because of the sensitive nature of the adjacent BHS, but no survey was provided until a late stage in the preparation for the appeal. Even then, only two visits were made (during May and June 2010) as against the three visits which represent the normal minimum requirement. The survey also provided only a one year picture, when normally a minimum of two breeding seasons’ activity is reviewed. It demonstrated, however, that the BHS supports a high concentration of reed bunting (a UK Biodiversity Action Plan priority species), together with three species of birds on the Red List, four on the Amber List and three on the BAP Priority List.
- 8.38 There will be disturbance to the general wildlife habitat during the construction phase if the site is developed, and the County Ecologist objected to the appeal application on grounds of disturbance to the hydrology of the area. Wetland plants found within the area would be adversely affected by changes to the hydrology caused by building within the catchment. There is no assurance offered that drainage into the BHS would be unaffected by runoff from the proposed development of surface contaminants such as hydrocarbons. However, the evidence on hydrology produced by the Appellants is not disputed.
- 8.39 WAG considers that the ecological implications of the proposed development have been inadequately considered. In response to cross examination, however, it is accepted that there is now no issue raised in relation to the impact of the proposed development on water voles, bats, hedgehogs, breeding and wintering birds or on hedgerows.
- 8.40 WAG suggests that there is sufficient evidence of the presence of GCNs around the site to justify a condition requiring a re-survey within a specified time limit, and that the risk of contamination to the BHS

should be addressed by a condition requiring long term monitoring. Not all water soluble contaminants are biodegradable.

9. THE CASES OF THE INTERESTED PARTIES WHO APPEARED AT THE INQUIRY

There was a total of 18 appearances at the inquiry by interested parties (other than WAG who had Rule 6(6) status). For the most part the issues they raised reflected the issues raised by WAG, but additional points or points of particular emphasis are noted in this section of the report.

The material points are:

- 9.1 Medlar-with-Wesham Town Council emphasise the **virtual unanimity of the opposition of local people to the appeal development**. A Town Meeting attended by more than 150 local residents had been almost entirely opposed to the scheme, and it had been unanimously rejected both by the Town Council when they considered it and by the Development Control Committee of Fylde Borough Council. This point is also underlined by a number of the other interested parties, such as Councillor Martin Howarth, Mrs Pat Banks and Martin Evans. Mrs Banks makes the further point that **not a single expression of support for the scheme has been received** from any person unconnected with the Appellants.
- 9.2 Medlar-with-Wesham Town Council also contend that **the revocation of the RSS means that the planning system should be more rooted in the local community**, a point supported by CPRE Fylde.
- 9.3 Along with many other interested parties, the Town Council argue that **there is no immediate requirement for additional housing in Wesham**. There are two substantial estates still under construction, and too much housing has been provided too quickly for the market to take up in current conditions. In particular, Councillor Linda Nulty and Richard Lee suggest that **too much affordable housing is being planned for Wesham, and it is not being allocated to people with a genuine local connection**.
- 9.4 Mrs Banks and Mr John Smith consider that there are many **alternative sites on previously developed land**, which should be developed before agricultural land outside the settlement boundary is considered.
- 9.5 Richard Nulty refers to the **Medlar-with-Wesham Parish Plan** of 2008 (Document IP/6/A1). In that document 61% of respondents to the residents' survey considered that too much housing was being constructed within the Parish with inadequate supporting infrastructure.
- 9.6 CPRE Fylde submitted their own **landscape character assessment** of the area which would be affected by the appeal proposals (Document IP/12/A1). While they accept that the assessment has been prepared on a subjective basis, and that it does not conform to the LI/IEMA

guidelines, it emphasises the landscape value of the open views across the appeal site towards the Bowland Fells and the high value placed on such views by local people. This is borne out by the number of times this issue is mentioned by interested parties in representations made at the inquiry and in written representations.

- 9.7 CPRE Fylde also make reference to concern at the potential for **damage to the BHS** arising from changes to the drainage regime and the bringing of development closer to the BHS area. These points are also referred to by Medlar-with-Wesham Town Council, Councillor Nulty and Mrs Banks. Mr Henry Smith raises in particular issues regarding the extent of the run off from the site, if developed, to the BHS. He had been concerned originally that there would be a loss of water to the Marsh. The current proposal is, however, to recycle rainfall back to the Marsh at a controlled rate. He is now concerned that the run off to the Marsh would be too great for the Marsh to sustain (see Document IP/10/A1), and that there would be contamination of the run off by residue from oil from cars and deposits from tyres on the roads.
- 9.8 Terry Blackburn gave evidence for WAG on ecological matters. In his own personal representations to the inquiry, he is **critical of the processes followed in the preparation of ecological evidence** for the Appellants.
- 9.9 Fred Moor points out that paragraph 29 of PPS7 states that “it is for Local Planning Authorities to decide whether best and most versatile agricultural land can be developed, having carefully weighed the options in the light of competent advice”. He suggests that the Council have received competent advice, and have decided that the BMV land in this case should not be developed. In those circumstances, he contends that PPS7 requires that **no one should be able to look behind the decision of the Council** on this issue. He also points out that the soil on the appeal site contains a significant proportion of peat. Although this normally means that the land concerned receives a low grading as agricultural land, **peat is a valuable resource** which should be protected.
- 9.10 Elizabeth Pickervance of the family which farms Mowbreck Hall Farm raises two additional points concerning the impact which would arise from the loss of the appeal site to the holding. There would be an additional **division between the remaining fields of the farm** in the area. There would also be **danger to children** living in the new properties, because impressive farm machinery is attractive to children.
- 9.11 John Smith and Gary Courtenay argue the importance of the maintenance of a **supply of locally grown produce**. The loss of farmland involved as a result of the appeal development would reduce the amount of potatoes and milk produced locally.
- 9.12 Medlar-with-Wesham Town Council suggest that **there would be no space available to take additional pupils in the local primary schools**. The same point is made by County Councillor Elizabeth

Oades. She accepts that the County Council as Local Education Authority have said that there were 183 spare places at the time the application was reported to the Council, and that there would remain 150 spare places in five years' time, but that would involve transporting pupils to schools throughout rural Fylde; there would be insufficient space for the additional pupils who would be generated by the occupation of the appeal development in the schools in Kirkham and Wesham.

- 9.13 The Town Council also express concern about the **availability of sewerage capacity** to accommodate the proposed development. A similar point is made by Councillor Linda Nulty. The Town Council refer to Policy DP04, but that was a policy of the revoked RSS. They accept that United Utilities have withdrawn their objection to the scheme on the basis that acceptable conditions to meet their concerns have been agreed.
- 9.14 Councillor Elizabeth Oades suggests that **the electricity supply in the area would be inadequate** to sustain the proposed development.
- 9.15 Elaine Bradley points out that **the access track from Mowbreck Lane also serves the rear of Medlar House**, and that this right of way is protected in the deeds to that property. She accepts, however, that this is a private matter.
- 9.16 Richard Lee considers that the development of additional houses on the appeal site would cause a **reduction in value of his house**, but he accepts that this is not a valid planning consideration.

10. THE CASES OF THE INTERESTED PARTIES WHO MADE WRITTEN REPRESENTATIONS

- 10.1 Some 59 written representations were received in connection with the appeal from people who did not give evidence at the inquiry. I have been through all of these representations in detail. The points raised in the letters are all covered in the evidence given at the inquiry on behalf of the Council, WAG and Mr Pickervance and in the representations of the interested parties who gave evidence at the inquiry.

11. CONCLUSIONS

Bearing in mind the submissions and representations which I have reported, I have reached the following conclusions, references being made in square brackets to earlier paragraphs in this report where appropriate.

Background

- 11.1 The application which is the subject of this appeal was made in outline, with all matters apart from access reserved. It was accompanied by a range of supporting documents [1.2, 1.3]. The application was refused by Fylde Borough Council (“the Council”) for four reasons, but before the opening of the inquiry the Council withdrew two of those reasons, partly withdrew a third, and introduced an additional reason for refusal [1.4, 1.5]. In addition, in their proofs of evidence for the inquiry, the Council raised for the first time the issue of prematurity. Although the Appellants questioned the appropriateness of this, I considered that it was a matter which was raised by the fact situation in the appeal, and it was therefore an issue on which I would have wished in any event to hear evidence and submissions [1.6].
- 11.2 The issues raised in the reasons for refusal which the Council had withdrawn continued to be pursued by the Wesham Action Group (“WAG”), who were a Rule 6(6) party at the inquiry, and by other interested parties [1.7].
- 11.3 Following the refusal of the appeal application by the Council, an amended Illustrative Site Layout was prepared and revised proposals for both on- and off-site highway works were produced. There were also further updated ecological surveys. No objection was raised by the Council or by any other party to the consideration of these documents at the inquiry [1.8, 1.9].
- 11.4 A Statement of Common Ground (“SCG”) between the Council and the Appellants was submitted to the inquiry together with a Joint Statement on Transport (“JST”) agreed between the Appellants and Lancashire County Council (“the County Council”) [1.10]. The Appellants also submitted an executed Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 before the close of the inquiry [1.11].

The main considerations

- 11.5 The main considerations in this case appear to me to be:
- a. The extent to which the proposed development is in accordance with the Development Plan for the area, having particular regard to policies in connection with
 - i) development outside settlement boundaries;
 - ii) development in the countryside;

- iii) the impact of the residential development proposed on the character of the locality in which it is proposed to take place; and
 - iv) development on agricultural land which is classified as best and most versatile (“BMV”) agricultural land.
- b. The extent to which the proposed development is consistent with Government policies in:
- i) PPS1: Delivering Sustainable Development and PPS3: Housing with particular regard to the requirement to bring forward sufficient land to meet the expected demand for housing in the area;
 - ii) the advice on prematurity in paragraphs 17 to 19 of The Planning System: General Principles, having regard to progress towards adoption of any emerging Development Plan documents;
 - iii) PPS7: Sustainable Development in Rural Areas, with particular reference to the development of BMV agricultural land;
 - iv) PPS9: Biodiversity and Geological Conservation, with particular reference to the effect of the proposed development on ecology, hydrology and the Wesham Marsh Biological Heritage Site (“BHS”); and
 - v) PPG13: Transport, with particular reference to the need to locate development in a way which helps to promote more sustainable transport choices, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel by car.
- c. The impact which the proposed development would have on the highway network and on highway safety in Wesham.
- d. Other material considerations raised by the parties such as the landscape and visual impact of the proposal and its impact on the operation of Mowbreck Hall Farm.
- e. Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex to that Circular.
- f. Whether any planning permission granted should be accompanied by any planning obligation under Section 106 of

the 1990 Act and, if so, whether the proposed terms of such an obligation are acceptable.

Accordance with the Development Plan

11.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Following the revocation on 6 July of the RSS, the Development Plan for the area includes the saved policies of the Fylde Borough Local Plan (As Altered) (“FBLP”). It is an amalgamation of the Fylde Borough Local Plan (1996-2006), adopted in May 2003, and the Fylde Local Plan Alterations Review (2004-2016), adopted in October 2005. The saved policies continue in force as a result of directions made by the Secretary of State under the Planning and Compulsory Purchase Act 2004 [4.1, 4.2].

Development outside settlement boundaries

11.7 It is common ground that the appeal site is located outside the single settlement development limit set for Kirkham/Wesham in the proposals map which accompanies and is part of the FBLP [5.2m, 6.4, 7.1]. Saved Policy SP1 of the FBLP states that development will only be acceptable within the adopted settlement boundaries. The Appellants contend for various reasons that the settlement boundaries of the FBLP are out of date, and that there are material considerations which outweigh the conflict between the appeal proposal and Policy SP1. I consider that point below from 11.31, but it is clear that the appeal proposal would be in conflict with saved Policy SP1.

Development in the countryside

11.8 It is also common ground that the appeal site lies within the countryside as defined on the proposals map. Saved Policy SP2 indicates that development in the countryside will not be permitted except in certain limited circumstances which do not arise in this case [5.2m, 6.4, 7.2]. It is clear that the proposal would be in conflict with saved Policy SP2.

Impact of the development on the character of the locality

11.9 Saved Policy HL2 of the FBLP states that planning applications for housing will only be permitted when the development would (amongst other matters) be in keeping with the character of the locality in terms of scale. The Council’s original reason for refusal argued that the appeal development would detract from the urban form and character of Wesham, but those issues were dropped by the Council before the opening of the inquiry [1.4b, 1.5].

11.10 The Council’s remaining concern relates to the scale or size of the development as a whole, not to the form or size of the individual properties proposed, which could be governed by an agreed condition. The objection is to the size and speed of the overall increase in housing

affecting the locality of Wesham [7.5 to 7.9].

- 11.11 The Council accept that “the settlement” for the purposes of Policies SP1 and SP2 is the built up area of Kirkham/Wesham, but, in assessing the impact of the scale of the development on its locality, they seek to relate that impact solely to Wesham [1.4b, 7.8]. The Appellants contest the logic of that position, and point out that it is at odds with the situation found on the ground [6.58, 6.59]. They claim support from the report which the Council’s officers made to the Development Control Committee in connection with the appeal application [6.65].
- 11.12 While the two towns are separated only by the Preston to Blackpool railway line, share a railway station, and are designated as one town centre in the FBLP [2.2, 6.62, 6.110], I consider that a “locality” for the purposes of Policy HL2 may perfectly properly be seen as a more local area than an overall settlement. I note the strong feeling of the distinctness of the locality of Wesham emphasised by many of the local residents who gave evidence at the inquiry, and I consider that it is perfectly proper to assess the impact of the scale of the proposed development on the locality of Wesham alone, rather than on the settlement of Kirkham/Wesham.
- 11.13 I agree with the Appellants that it is not appropriate to consider the impact of the scale of the proposal on Wesham by adding the number of additional dwellings envisaged for the appeal development to the numbers generated by other recent housing approvals in Wesham. Those other recent approvals have already been granted, and are to be considered as already part of the existing make up of the locality [2.8, 2.9, 6.60, 8.6, 8.14].
- 11.14 On that basis, the proposal is to add around 16% more houses to the existing housing stock of Wesham [7.8]. Clearly that would be a substantial increase to the housing stock of the locality. I accept the concern which local people have about impact of such a substantial addition on the character of the locality and the capacity of the community to accept the scale of the additional population which would arise [7.7, 8.6, 8.14]. I consider that the appeal proposal would be contrary to FBLP Policy HL2.

Development on agricultural land

- 11.15 Saved FBLP Policy EP22 indicates that development will not be permitted which would involve the permanent loss of BMV agricultural land where the development could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas, or on poorer quality agricultural land [7.11].
- 11.16 Extensive evidence was given regarding the correct classification of the agricultural land within the appeal site [6.34 to 6.40, 7.12 to 7.15, 8.22]. In the event, it was agreed that there were certainly some 3 hectares of BMV land within the appeal site, and that this land would be permanently lost to agriculture if the appeal was allowed.

11.17 The Appellants argue that some greenfield land outside settlement boundaries will need to be released in order to meet in full the Borough's housing need [6.43], and that is indeed accepted in the SCG if any substantial housing target has to be met [5.2p]. That does not mean, however, that the level of development proposed for the appeal site now could not reasonably take place at this stage on sites comprising previously developed land, land within existing settlement boundaries or poorer quality agricultural land. In my view, therefore, the requirements of FBLP Policy EP22 for the immediate release of this area of BMV agricultural land have not been met, and I consider that the appeal proposal would be contrary to that Development Plan policy.

Overall position on accordance with the Development Plan

11.18 I consider that the appeal development would not comply with Policies SP1, SP2, HL2 and EP22 of the FBLP, and I therefore conclude that the appeal development would not be in overall accordance with the Development Plan for the area.

11.19 It is thus necessary to go on to consider whether there are material considerations which would justify determining the appeal otherwise than in accordance with the Development Plan.

Consistency with Government policy

PPS1 and PPS3 and the supply of housing land

11.20 PPS1 requires Local Planning Authorities to bring forward sufficient land to meet the expected need for housing in their areas. It identifies this as a feature of a sustainable community. The homes provided should include an adequate level of affordable housing. These requirements are carried forward in PPS3; paragraph 29 of that document requires Local Planning Authorities to set an overall target for the amount of affordable housing to be provided. PPS3 goes on to require adopted DPDs to set out policies and strategies for delivering the necessary housing for a period of fifteen years from their adoption. In particular, sufficient specific and deliverable sites should be identified to provide the necessary level of housing required in the first five years. That five year supply must be maintained on a continuous basis and reviewed annually. Paragraph 71 of PPS3 indicates that, where a Local Planning Authority cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing having regard to the policies in the PPS. This provision has been retained in the version of PPS3 which was reissued in June 2010 [6.5 to 6.7].

11.21 The Council do not yet have any adopted DPD; nor do they have any draft DPD. The FBLP does not contain any housing allocation or target. The target for the area was contained in the RSS. That target was 306 dwellings per year ("dpa"). As part of the RSS, it has, however, been revoked by the Secretary of State, and in my view calculations of the extent of the forward housing land supply based on the provisions of the

RSS are therefore of no significance [6.21, 7.30]. Guidance issued on behalf of the Secretary of State (“CLGGN”) when the RSS was revoked makes it clear, however, that Local Planning Authorities are still required to have regard to national policy, and, specifically, to identify a five year supply of deliverable housing sites [4.2, 4.4, 6.7, 6.10, 6.13].

- 11.22 When the RSS was revoked, the CLGGN in effect gave Local Planning Authorities three options for discharging the responsibility which passed to them for establishing the appropriate level of housing provision for their area: they could retain the RSS figure; revert to their Option 1 figure, (the figure put forward by the Local Planning Authority when the RSS was being prepared as the level of housing they regarded as required in their area - in the Council’s case that was in fact the same figure of 306 dpa); or review their housing targets. If they decided on a review, the result of that process was to be based on reliable information [6.17, 7.22].
- 11.23 The Council decided on 5 August 2010 to carry out a review with a view to setting their own revised target. Paragraph 10 of the CLGGN indicates that any such review should be an early review, so that communities and land owners know where they stand. Clearly, however, such a review could not take place overnight. So far as is known, no authority which has decided to review the target had been able to complete such a review by the date of the inquiry [6.18, 7.23].
- 11.24 The Appellants argue that, in the meantime, the evidence base which supported the RSS target should provide guidance on the necessary level of housing provision for the area [6.13]. The CLGGN provides that this may be a material consideration, depending on the facts of the case. In Fylde, the evidence base for the RSS supported a conclusion that 5,500 dwellings needed to be provided between 2003 and 2021 at a rate of 306 dpa. By 31 March 2010, the actual number of dwellings which had been completed was 1,569, a shortfall of 573 on the target set by the RSS for achievement by that date [6.13, 6.15].
- 11.25 For the whole of the next five years, the Council have a supply of deliverable sites capable of yielding only 560 dwellings, even if a significant allowance for windfall sites is assumed. This would provide a level of delivery during that five year period of only 112 dpa [6.21].
- 11.26 The Appellants contend that, whatever the outcome of the Council’s review of housing need, it could hardly be that the need had fallen from the 306 dpa, which the Council itself put to the RSS examination in public and which was accepted in the RSS in October 2008, to a level of 112 dpa over a period of two years during which the updated 2006 household projections for the area (published in March 2009) forecast a growth of 2,000 households for Fylde between 2006 and 2011 and a further growth of 2,000 households between 2011 and 2016. Even the RSS target would have met only half of the Government’s household growth predictions, but it was seen to represent the maximum which was deliverable [6.23].

- 11.27 In terms of affordable homes, the Council's Housing Needs and Demand Study Update 2007 identified the total requirement for affordable homes in the Borough as 568 dpa. Clearly that figure could not be provided within a total target for all dwellings of 306 dpa, but it underlines the extent of the need for affordable properties in the area. The Study also breaks the requirement down by settlement, and the figure for Kirkham/Wesham is 63 affordable dpa. Actual affordable housing completions in the Council's area have been very low in comparison with that identified need – just 18 dpa between 2004 and 2010 across the whole Borough, and 25 dpa between 2001 and 2010 [6.16]. At 31 March 2010, planning permission was in place for 88 affordable homes in Kirkham/Wesham, but even that figure represents only a 1.4 years supply compared with the annual requirement of 63 affordable units mentioned in the 2007 Study [6.25]. The appeal development would provide an additional 79 affordable homes for Kirkham/Wesham, which if it is accepted by the Council would contribute towards addressing existing needs within Kirkham/Wesham and the Borough as a whole [5.2i, 6.26].
- 11.28 The Appellants therefore argue that it cannot be contended that the Council have either a five year supply of housing land or of affordable housing provision, and in those circumstances they say that they should be entitled to the presumption in favour of permission contained in paragraph 71 of PPS3 [6.7, 6.27, 6.33].
- 11.29 The Council's response is that there is no presumption contained in the CLGGM that, having opted to carry out a local review, the RSS or Option 1 figures should apply in the meantime [7.24, 7.25, 7.27]. Having taken the position that a local review would be carried out, there is currently no annual target for the provision of homes, and it is therefore not possible to determine what would be a five year land supply or a five year supply of affordable homes [7.28].
- 11.30 The Council point out that the evidence base on which the RSS was prepared is no longer up to date. It has been overtaken by more recent population projections which show a significant decrease in the anticipated level of population growth in the area [7.31, 7.32]. The consultation draft of the Strategic Housing Land Availability Assessment ("SHLAA"), published in February 2010, showed sites within existing settlement boundaries capable of delivering approximately 2,000 dwellings. The process of considering this document should be allowed to continue and to be brought to a conclusion. It should not be pre-empted by a decision to allow development on this one specific site outside of existing settlement boundaries [7.32].
- 11.31 The Appellants contend that the settlement boundaries in the FBLP are outdated because, at the time the Local Plan was adopted, the current view was that there was no need for the allocation of significant additional land for housing in the area. Circumstances have now changed, in particular because of the policy direction of PPS3 [6.9 to 6.11]. While national policy favours the use of previously developed land, it does not entirely preclude the use of greenfield land, and the

SHLAA concludes that there will be a significant need for greenfield land to be released for housing in Fylde [6.30]. The Council point, however, to the reduced estimate of population growth, the significant level of housing which could be provided within settlement boundaries as evidenced by the SHLAA, and the importance which the Secretary of State attached to settlement boundaries in a recent decision regarding a housing proposal south of Queensway at St Annes, where substantial emphasis was given to the proposal's conflict with FBLP Policy SP2 [7.30 to 7.35].

11.32 The Council accepted when the RSS was nearing adoption in 2008 that they could not quickly produce DPDs to identify all the necessary housing sites to meet the target set by the RSS. They therefore adopted what they called an Interim Housing Policy ("IHP"). It was the subject of public consultation and sustainability appraisal. Although not a formal Supplementary Planning Document, it represents a confirmation of the approach of restricting housing development within settlement boundaries except where material considerations indicate the need to go outside them. The IHP was amended in 2010 (this time without public consultation) by way of an immediate response to the revocation of the RSS. Again, there was an endorsement of the FBLP policy approach of focussing new development within settlement boundaries [6.14, 7.36, 7.37].

11.33 The Appellants contend that no weight should be attached to the 2010 IHP, which has no parent policy in the FBLP, has been produced without any discussion with stakeholders either before its adoption or subsequently, and which (like the 2008 version) flies in the face of the requirement in paragraph 6.4 of PPS12 that Councils should not produce guidance intended to be used in decision making other than in formal Supplementary Planning Documents. There has been no assessment of how the policy would achieve, or what its effect would be on, the identification of a five year land supply [6.20].

Interim conclusions regarding PPS1 and PPS3 and the supply of housing land

11.34 Compliance with national policy is always a material consideration. I do not accept the Council's argument that the lack of a current housing target assists them in terms of compliance with PPS3. Paragraph 71 of PPS3 simply states that if the Council cannot demonstrate an up to date five year supply of deliverable sites then they should consider planning applications for housing favourably. The decision to review the housing target for the area provides a reason why there is no target at the moment, but that does not in my view avoid the requirement to demonstrate a five year land supply. In my view, paragraph 71 of PPS3 applies, as the Council ultimately accepted [7.50]. Provided there is no other objection (including the matters set out in paragraph 69 of PPS3) the appeal scheme should be considered favourably. This represents a material consideration in favour of the appeal development which will need to be weighed in the overall balance along with other material considerations.

- 11.35 I do not accept, however, that the RSS or Option 1 figure should be used as a target until the Council's review has been completed. In my view there is no proper basis to support that approach. Nor do I accept that there is any basis, as WAG suggest, to revert to the previous target set out in the long superseded Joint Lancashire Structure Plan [6.22, 8.7].
- 11.36 I place very little weight on the point made by WAG and other interested parties that there is only limited demand from the market for additional housing in the area at the moment. I agree with the Appellants that that is a matter to be considered by a developer deciding whether to proceed with a scheme rather than by a decision maker considering an application or appeal [6.29, 8.9, 9.3].
- 11.37 For the reasons identified by the Council and set out in paragraph 11.31, I consider that there are significant change factors which justify giving limited weight now to the evidence base which informed the RSS. I also agree with the Council that these changes justify continuing support for the settlement boundaries contained in the FBLP, in line with the position taken by the Secretary of State in the Queensway appeal.
- 11.38 I note that the existence of the IHP is at odds with the guidance in PPS12 that such informal planning documents should be avoided, because they might be seen as seeking to avoid the requirements for consultation and sustainability appraisal. The 2008 IHP was, however, subject to those procedures, and was then formally adopted by the Council. I understand the Council's motives for producing such a document, given the slow progress which was being made (and is still being experienced) in the production of their DPDs. I also understand the motive for revising the IHP in the light of the revocation of the RSS. I have given limited weight to the 2008 document in the light of its informal status, and very little weight to the 2010 document, while obviously placing greater reliance on the FBLP policy which both documents are designed to support.
- 11.39 In relation to affordable housing, I note that the figure of 63 affordable dpa needed in Kirkham/Wesham was derived from the 2007 Study, which identified a need for 568 affordable dpa across the Borough. That figure was not followed, however, even in the RSS. On the other hand, I accept that the need for affordable housing in the area is substantial and that the offer of 79 units in the present case is a point in favour of the appeal development.
- 11.40 My interim conclusion is that the Council have not complied with the policy requirement in PPS3 to identify a five year housing land supply, and that the presumption in paragraph 71 of PPS3 thus applies. I shall also consider in the overall balance regarding the appeal proposal, however, the offer of affordable housing, the changes in the evidence regarding population growth, the availability of sites within the existing settlement boundaries, and the impact of those factors on the appropriateness of the release of the appeal site for development at this stage.

Prematurity

- 11.41 Paragraph 17 of “The Planning System: General Principles” indicates that it may be justifiable to refuse planning permission on grounds of prematurity when a DPD is being prepared but has not yet been adopted. The Council say that a DPD is being prepared in this case, but they accept that there is not even a draft issues and options document in existence at present. They also accept that there is no early prospect of the submission of a CS for examination [7.38, 7.39, 7.44].
- 11.42 The Council suggested at the inquiry that the issues document could be produced within three months, but I share the view of the Appellants that this is optimistic on the basis of the evidence which I heard. Even when the Council produce a document for consultation, the consultation comments will need to be gathered and considered. I believe that it will be 2013 before there is any prospect of the CS being adopted, and it will be 2015 before the Site Allocations Development Plan Document (“SADPD”) is likely to be adopted. The future of a specific site like the appeal site would normally be dealt with in the SADPD, although the CS should at least provide overall guidance on the level of housing provision required in the Borough, the approach to the identification of any additional sites required in terms of potential revised boundaries of settlements, and the balance between development within and possibly beyond any revised settlement boundaries [7.45]. In the lengthy intervening period, the Council propose to rely for the most part on small sites and infill to meet their housing need in line with their IHP [6.69, 7.38 to 7.41].
- 11.43 When a DPD is at the consultation stage with no early prospect of submission for examination, paragraph 18 of the General Principles guidance states that refusal of planning permission on grounds of prematurity will seldom be justified because of the delay which this would impose in determining the future use of the land in question. The Council argue that the reference to refusal seldom being justified implies that in certain circumstances such a refusal could be justified. They contend that this is such a case, in the unique circumstance of the revocation of the RSS, which had set the housing targets for the area, and the need to respond to that new situation [6.68, 7.44]. The Council say that this new circumstance is the reason why the issue of prematurity is raised now, but was not raised in their original reasons for refusal of the appeal application [1.6, 6.67, 7.44]. As regards the guidance in paragraph 72 of PPS3 that applications should not be refused solely on the grounds of prematurity, they say that there are also other reasons which are still sustained why the Council refused the appeal application [7.42].
- 11.44 The Appellants argue that the appeal proposal is not so substantial that a delay on the ground of prematurity would be justified. It would amount to an increase of only 6% in the households and population of Kirkham/Wesham, which would be entirely in proportion with the function that Kirkham/Wesham plays in the Borough as the second largest concentration of population [2.2, 6.70, 7.42].

11.45 Paragraph 19 of “The Planning System: General Principles” indicates that, where permission is refused on grounds of prematurity (as the Council now suggest should be the case), there is a need to demonstrate clearly how the grant of permission would prejudice the outcome of the DPD process [6.68]. On that issue, the Council point to the range of potential future housing sites identified in the SHLAA some of which can continue to come forward in line with the policies of the FBLP and the approach taken in the IHP in the short term [7.32]. They argue that the appropriate process for determining the strategic question of the future scale and location of housing in Kirkham/Wesham is through the LDF. Only by that process can there be full public engagement on these key decisions and full consideration of the potential availability of the necessary infrastructure to sustain the level of growth involved [7.9]. The approval of the appeal development would prejudice the DPDs by effectively predetermining a decision about the scale and location of housing development in the locality of Wesham and the settlement of Kirkham/Wesham [7.43, 7.52]. It would also predetermine the issue of the release of a significant area of agricultural land, which includes some BMV agricultural land [7.46]. There is no compelling evidence to indicate that there is a reason to release this greenfield site at the present time to meet targets in the revoked RSS which no longer apply [1.5]. These points are strongly supported by WAG [8.4, 8.10].

Interim conclusion on the issue of prematurity

11.46 Both “The Planning System: General Principles” and paragraph 72 of PPS3 make it clear that prematurity in connection with emerging DPDs will seldom be a valid ground for the refusal of a housing development. That should particularly be the case when the delay before it can be anticipated that a relevant DPD will be adopted is as substantial as it is likely to be in this case.

11.47 There are significant issues for the Council to determine in their DPDs regarding the extent of the additional housing development which is needed and the location and scale of that development across the whole Borough, but working through that process is likely to take up to five years. I do not consider that such a lengthy delay is envisaged by the guidance contained in “The Planning System: General Principles”.

11.48 In my view, despite the issues which remain to be resolved regarding the scale and location of future housing provision in the Council’s area, the refusal of the appeal application on the ground of prematurity is not justified by the Government’s published guidance.

PPS7 - Sustainable development in rural areas

11.49 As indicated at paragraph 11.16 above, having assessed all the competing evidence on land grading, I consider that there are at least 3 hectares of BMV agricultural land within the appeal site which would be permanently lost to agriculture if the appeal is allowed. PPS7 provides that *“The presence of best and most versatile agricultural land should be*

taken into account alongside other sustainability considerations when determining planning applications” [6.41]. Where significant development of agricultural land is unavoidable, Local Planning Authorities should seek to release poorer grade land in preference to BMV land [6.44].

- 11.50 The Appellants argue that the SHLAA clearly demonstrates that some agricultural land will need to be developed for housing, and it is accepted in the SCG that the appeal site is in a sustainable location and physically capable of being developed for housing [5.2a, 5.2b, 6.43].
- 11.51 The Appellants also make the point that the BMV land on the appeal site is found in relatively small patches around the site, none of which could be farmed separately. In practice, they should therefore be farmed in line with the lower grade land within which they are located [6.41]. The point is accepted to some extent by the Council, but they respond that this does not alter the fact that some BMV land would be lost. I accept the Council's point that the impracticability of farming the BMV land as such goes to the weight to be attached to the conflict with PPS7 rather than providing a full answer to the point [7.15, 7.16].
- 11.52 WAG and Mr Pickervance argue that, whatever anybody says about the quality of the appeal site as agricultural land and about the variability of the land, good yields of crops are produced by the land, and they are of even quality, which does not support the idea that the land is a patchwork quilt of variable soil types [8.24]. I understand the pride which Mr Pickervance takes in his successful farming of the land, but I consider that I must give decisive weight to the detailed expert evidence regarding grading which I heard at the inquiry.
- 11.53 I do not accept that the loss of the appeal site to agriculture if the appeal were allowed would have any significant impact on the food security of the UK or indeed of the local area [8.25, 9.11] or that the loss of the site could be used as a precedent of wider application [8.26].
- 11.54 The Appellants point out that in other recent appeals concerning the development of agricultural land the Council have not raised any objection to the loss of a greater area of BMV land (in the Queensway appeal) or to a greater proportion of BMV land (in the Ballam Road appeal) [6.42, 8.23]. I have no knowledge of the detailed approach taken by the Council in responding to those appeals. In the present appeal the point was raised by the Council and also by objectors. On the basis of the evidence produced, it is also raised by the fact situation, and therefore it is necessary for me to deal with it.
- 11.55 An interested party, Mr Moor, points out that paragraph 29 of PPS7 states that it is for a Local Planning Authority to decide whether BMV land can be developed, having carefully weighed the options in the light of competent advice. He contends that the Council have received competent advice in the present case, and have decided not to grant planning permission. He submits that PPS7 therefore requires that nobody should be able to look behind the decision of the Council, and

that the appeal should therefore be dismissed on that ground alone [9.9]. I do not accept that contention. Policy guidance cannot overrule a right of appeal given by an Act of Parliament.

11.56 Mr Moor also points out that the soil on the appeal site contains a significant proportion of peat, which, although lowly graded as agricultural land, is a valuable and increasingly recognised resource [9.9]. It is not, however, currently protected by PPS7 [6.46].

Interim conclusion regarding compliance with PPS7

11.57 The appeal development would lead to the permanent loss of at least 3 hectares of BMV agricultural land. The land concerned is in a number of parcels and lies within areas of land of poorer quality. Although it could not practically be farmed as BMV land, the loss of BMV land is still at odds with the approach of PPS7. While the appeal site is accepted to be in a sustainable location it has not been shown that the development of agricultural land is unavoidable now.

PPS9 - Biodiversity

11.58 PPS9 indicates that planning decisions should aim to prevent harm to biodiversity. The SCG records that the Appellants and the Council consider that the appeal development would enhance biodiversity [5.2g, 6.83]. There is no statutory nature conservation designation affecting the appeal site, and no protected species has been found on the site [5.2e, 5.2f, 6.75 to 6.80]. Moreover, a substantial area of the site would be developed as a biodiversity area, and it is agreed that the appeal development would have no adverse impact on the adjacent non-statutory BHS [3.3, 5.2e, 6.86 to 6.92].

11.59 WAG originally challenged these conclusions [8.36 to 8.39], but ultimately accepted that the appeal development would raise no issue regarding protected species [8.39], and did not challenge the hydrology evidence regarding run off of water from the development [8.38]. They pursued two conditions on any approval of planning permission [8.40], which I shall address when dealing with conditions below.

11.60 Interested parties also raised issues regarding potential damage to the BHS arising from the appeal development [9.7, 9.8], but I accept the expert evidence given on behalf of the Appellants that the arrangements for dealing with surface water from the development would be capable of dealing with a 1 in 100 year flood event, including an allowance for 30% higher rainfall as a result of climate change [6.88]. I also accept that they would deal satisfactorily with the removal of contaminants from water flowing to the BHS [6.90]. In addition, the arrangements proposed would bring with them the advantage of removing a present occasional flooding problem in Mowbreck Lane [6.89].

11.61 I conclude that the appeal development would comply with the guidance given in PPS9.

PPG13 - Transport

- 11.62 PPG13 encourages sustainable development where jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling. The Appellants and the Council agree that the appeal site represents a sustainable location for housing development [5.2a]. It is close to the centres of Wesham and Kirkham and to the Kirkham/Wesham railway station, and it would have access to good bus services [6.110, 6.112, 6.113]. The topography of the area is reasonably flat, and therefore conducive to cycling [6.111].
- 11.63 These points were challenged by WAG. They consider that neither Wesham nor Kirkham provides a satisfactory range of shops or affordable public leisure facilities [8.13]. The job supply in the area is limited, which means that most people work outside the immediate area [8.17], and off peak bus and train services are also limited [8.18]. The Medlar-with-Wesham Parish Plan of 2008 (a non-statutory document, which seeks to articulate the views of local residents on, and their aspirations for, their area) also criticises what local people perceive to be the inadequacy of the infrastructure to support additional housing [9.5].
- 11.64 As WAG agreed, however, the FBLP recognises that Kirkham/Wesham is a subsidiary centre, with Blackpool and Preston being regarded as the higher level local shopping centres for the area [8.15].
- 11.65 WAG and various interested parties contend that there would be inadequate health service provision in the area to accommodate a further influx of new residents; that additional population would stretch the emergency service provision in the area; that there would be no space available to admit additional pupils to local primary schools; and that there is inadequate capacity in the local sewerage and electricity infrastructure [8.19, 8.20, 9.12 to 9.14]. I note, however, that none of the responsible agencies has objected to the proposals, despite being consulted, and that no developer contribution has been sought to cover additional demands on either the educational or health services [6.63].
- 11.66 I consider that Kirkham/Wesham delivers a good range of local services, and I agree with the judgement of the Council and the Appellants that the appeal site would provide a sustainable location for housing development. In addition to local jobs, there is good public transport access to jobs outside the immediate area.
- 11.67 I conclude that the appeal development would be consistent with PPG13.

Impact on the highway network

- 11.68 It is common ground between the Council and the Appellants that there is sufficient capacity in the road network of the area to accommodate the appeal development, and that the highway arrangements proposed would be safe and appropriate [5.2c, 5.2d]. These conclusions were challenged by WAG [8.29 to 8.35].

11.69 On the evidence I heard at the inquiry, I am satisfied that the highway capacity and highway safety criticisms made by WAG are unfounded. The highway capacity assessments carried out were particularly robust, as they made allowance for all the traffic expected to be generated by permitted development at Crossing Gates and Derby Road, even though some of those properties were already occupied and traffic from the occupied units would therefore have already been reflected in the survey data [6.115, 8.29]. The traffic survey data were collected by independent organisations, and the 2008 survey data continued to be used even though the 2010 survey data showed some reduction in traffic [6.116]. The capacity analysis was carried out to proper professional standards, and does not indicate that the highway network is currently congested. With the highway improvement works planned to support the development, the Local Highway Authority are entirely satisfied that the development can be safely accommodated on the highway network. Neither the County Council nor the emergency services raise any concern about the impact of the proposed development on the fire and ambulance stations on Fleetwood Road [6.117, 8.31]. The junction arrangements and the arrangement for the pedestrian crossing on Fleetwood Road have been found to be safe and acceptable by the Local Highway Authority. They would meet the relevant national standards and have passed a Stage 1 Road Safety Audit which WAG accept was carried out in accordance with the relevant standards [6.118, 6.119, 8.32, 8.33].

11.70 I conclude that there would be no impact on the highway network arising from the appeal development which would support the dismissal of the appeal.

Other material considerations

Landscape and visual

11.71 The Council accept that the Landscape and Visual Assessment submitted with the appeal application is accurate and meets the requirements of the 2002 guidance issued by the Landscape Institute/Institute of Environmental Management and Assessment (“LI/IEMA”) [5.2h]. There is no objection to the appeal development on landscape or visual grounds from any statutory consultee [6.93]. The assessment concludes that there is nothing in the landscape character of the site which makes it especially critical or sensitive. A similar landscape quality is to be found throughout the area around Kirkham/Wesham [6.95, 6.97, 6.98].

11.72 This conclusion is strongly challenged by the CPRE and also by other interested parties [6.96, 6.102]. The CPRE prepared their own landscape character assessment, which concludes that the site is “*arguably one of the finest landscapes in the Fylde*”, and it is clear that it is highly valued by local residents. The CPRE accept the point, however, that their assessment has not been prepared in conformity with the LI/IEMA guidelines, and that it is a largely descriptive document, which puts forward subjective views [6.96, 9.6].

- 11.73 Of the total appeal site area of 14.7 hectares, only some 9.1 hectares would be devoted to residential development. The balance of the appeal site would be developed as a biodiversity area [3.1, 3.3, 6.103, 6.104]. The detailed proposals for the landscaping of the whole site and the treatment of the biodiversity area would be reserved matters, but the overall landscaping treatment of both elements of the site would be in accordance with the Development Framework Plan [1.3, 3.2].
- 11.74 The proposed biodiversity area would be intended to provide future residents of the development with a nature area that would be rich in plant and animal life. It would enhance the importance of the BHS by reproducing features (notably an open water habitat) which existed at the time of its original designation but have subsequently been lost. It would be designed to provide an educational and nature study feature close to the existing and proposed new residential area [6.83, 6.100, 6.101, 6.103, 6.104].
- 11.75 The landscape treatment of the site and the provision of the biodiversity area could be secured by appropriate conditions and by the Unilateral Undertaking which has been offered. Together with the development proposed, they would change the existing view of the site, but would also provide some beneficial impacts in relation to trees and hedgerows and the provision of a more graded edge to Wesham than the existing immediate juxtaposition of houses with agricultural land [6.100 to 6.104].
- 11.76 I consider that the appeal development would change the landscape and the view of the appeal site and its immediate area, but I share the opinion that there is nothing particularly critical or sensitive in the landscape character of the site. In fact, I agree that the proposal would make some improvement to the edge of the settlement of Wesham by providing a less stark transition between the housing and the agricultural uses than that which currently exists. The proposed biodiversity area would in my view be an advantage to the area, and would build on and support the resource which the BHS currently represents.
- 11.77 I conclude that the landscape and visual issues raised do not give rise to material considerations which would justify the dismissal of the appeal proposal.

Impact on Mowbreck Hall Farm

- 11.78 The financial impact of the loss of 11.87 hectares of land from Mowbreck Hall Farm was the subject of contested evidence at the inquiry [6.47 to 6.53, 7.47, 8.21]. In part, the conflict of evidence arises from the different assumptions made about the future size of the milking herd and potential changes in farming practice which could be made to respond to the loss of the land concerned. It is not necessary for me to explore those items in detail, however, because, while it is agreed that the loss of the appeal site would have some impact on overall profitability (which would give rise to an entitlement to compensation),

it is not suggested that the remaining holding would not be financially viable [6.51, 7.48].

11.79 In relation to the availability of continued access for heavy equipment to allow drainage maintenance of Medlar Brook, I do not accept that the loss of the appeal site would make this impossible [6.55, 8.27]. Nor do I accept that the development proposed would necessarily lead to any increased adverse impact on retained farming land because a buffer between the residential and agricultural uses would be provided by the proposed biodiversity area and the strengthened hedgerow along the eastern boundary [6.56, 8.28].

11.80 In terms of the additional division which would be created between the remaining fields of Mowbreck Hall Farm, Mr Pickervance already farms land in a number of locations. I do not consider that the danger from farm machinery to children living in the proposed dwellings would be any greater than the danger which exists for children living in existing properties in the locality. No evidence was produced as to any injury to a child in the area arising from the proximity of housing to the farm machinery used at Mowbreck Hall Farm [9.10].

11.81 I conclude that the issues raised in relation to the impact of the appeal development on Mowbreck Hall Farm do not give rise to material considerations which would justify the dismissal of the appeal proposal.

Scale of opposition to the appeal proposals

11.82 A number of interested parties raise the extent of the local opposition to the appeal development and the lack of any local support for it [9.1, 9.2]. I have considered and evaluated all the grounds advanced at the inquiry and in written representations for that opposition, but the simple fact of opposition (as opposed to the grounds quoted in reasoned opposition) is not a matter which weighs with me. The companion to PPS1 (The Planning System: General Principles) makes it clear that applications and appeals should continue to be determined on the basis of a plan led system.

Conditions

11.83 Without prejudice to their opposition to the appeal, the Council submitted a set of agreed conditions in the SCG. They were discussed at the inquiry [1.10]. I have made detailed amendments to some of the conditions following that discussion in the light of the advice given in Circular 11/95. The conditions which I would recommend for application to any grant of planning permission are contained in Appendix C to this report [1.14]. The reason for each condition is set out below the condition concerned.

11.84 Given that the application is in outline, there are conditions to deal with reserved matters. I recommend conditions to tie the scope of the development to the Development Framework Plan which was before the inquiry and to limit the scale of individual properties to that proposed by

the Design and Access Statement, so that the assumptions made at the inquiry regarding the proposals would be borne out in the details submitted [3.2]. There are also conditions to deal with archaeology, retained trees, planting and landscaping, ecological issues including addressing the potential impact on protected species, the protection of the BHS and the creation of the proposed biodiversity area [3.3, 5.2e], flood risk and drainage [6.63, 9.16], the management of the impact of construction on highways and the provision of the agreed highway works to address the traffic impact of the proposed development [6.107], public open space [3.2] and sustainability and site contamination.

11.85 WAG seek in addition a condition requiring a re-survey of the site within a specified time limit to check for the presence of great crested newts on the site. I consider such a condition unnecessary, because the position would be covered on a continuing basis by the on-going monitoring regime which would be applied by the Council under proposed condition 9 [6.122, 8.40].

11.86 The Environment Agency suggest that the arrangements for the protection of great crested newts (which are referred to in condition 11) should be extended to require the provision of exclusion fencing along the southern and eastern site boundaries to prevent the accidental access of newts to the development site. Again, however, I consider such a provision unnecessary, because the small number of great crested newts which have been found in the area around the appeal site have been located so far away from the site that it seems to me that there is no reasonable likelihood of a great crested newt population being affected by the appeal proposals [6.123].

11.87 WAG also ask for a condition requiring long term monitoring of the run off of water to the BHS to guard against any danger of contamination. I note that the details of the drainage system proposed to be installed and the method of intercepting any contaminant would need to be approved in advance by the Council under proposed condition 12. In those circumstances, I agree with the Appellants that it would be neither reasonable nor necessary to require continuing monitoring of these issues after development [6.124, 8.40].

11.88 I consider that the conditions set out in Appendix C meet the tests in paragraph 14 of the Annex to Circular 11/95, and I conclude that they should be attached to any planning permission granted in this case.

The Section 106 Unilateral Undertaking

11.89 A copy of an executed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted at the close of the inquiry. Its terms had been discussed during the inquiry [1.11].

11.90 The Undertaking requires that 30% of the dwellings which would be constructed on the appeal site should be made available as affordable housing. Some 80% of those units would be social rented

accommodation provided through a Registered Social Landlord. That is the type of housing which the Council consider would be the most appropriate within the Borough. The remaining 20% would be shared ownership units, again provided through a Registered Social Landlord [6.126]. The Undertaking also requires the conclusion of a detailed Landscape and Ecology Plan to secure the planned ecological benefits associated with the development and a Travel Plan to encourage travel to and from the site by sustainable modes of transport [6.127]. Provision is made in addition for various financial contributions to be made by the developer designed to improve the accessibility and sustainability of the proposed development [6.108, 6.128].

11.91 I consider that all the provisions contained in the Unilateral Undertaking meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I therefore conclude that reliance can be placed on the provisions of the Undertaking in assessing the acceptability of the appeal application.

Overall conclusions

11.92 I have concluded at paragraph 11.18 above that the appeal development would not be in accordance with the Development Plan for the area, in particular with Policies SP1, SP2, HL2 and EP22 of the FBLP. While the Appellants contend that the settlement boundaries in the FBLP are outdated, for the reasons set out at paragraph 11.37 above I conclude that those boundaries are deserving of continuing support.

11.93 I consider that there are some material considerations which would support the determination of the appeal otherwise than in accordance with the Development Plan. As I note at paragraph 11.34, the Council are not able to demonstrate an up-to-date five year supply of deliverable housing sites, and paragraph 71 of PPS3 indicates that in that circumstance a Local Planning Authority should consider a planning application for housing favourably. The Council also have a significant unmet need for affordable housing, and the appeal development would deliver 79 affordable units of the type and tenure required in the area. The appeal site is in a sustainable location, and the proposed development would have a positive impact on biodiversity in the area.

11.94 The fears of local people about the effect of the development on the efficiency and safety of the highway network are unfounded, and neither the landscape concerns nor the impact of the appeal development on Mowbreck Hall Farm would in my view justify the refusal of the appeal. Those considerations neither support nor militate against acceptance of the appeal proposal.

11.95 On the other hand, for reasons which I consider to be justifiable, the Council have decided, following the revocation of the RSS, to identify a new housing target for their area. This is an option open to them. The evidence is that the population growth envisaged for the area will be lower in level than previously anticipated. There are sites within the existing settlement boundaries provided in the FBLP which could

accommodate a significant level of housing development while a properly considered approach to meeting the identified housing need is developed through the LDF.

11.96 Although I have concluded at paragraph 11.48 above that a refusal on the ground of prematurity is not justified, the appeal proposal is in substantial conflict with saved policies of the FBLP. The appeal proposal is a significant one in the context of Wesham. A favourable determination of the appeal now would be made in advance of a revised estimation of the appropriate level of future housing provision required for the whole of the Council's area; it would pre-empt decisions on revised settlement boundaries; and it would predetermine the issue of the release of a significant area of agricultural land.

11.97 I am not convinced that there is a need for a decision to be taken now to allow the development of the appeal site. On balance, I conclude that the non-compliance of the appeal scheme with the Development Plan outweighs the material considerations in favour of the development. I do not consider that the conditions set out in Appendix C would address these matters. Nor do I consider that the benefits offered by the Unilateral Undertaking would serve to make the appeal development acceptable at the present time. For those reasons, I conclude that the appeal should be dismissed.

12. RECOMMENDATION

12.1 I recommend that the appeal be dismissed.

Michael Ellison

INSPECTOR

APPENDIX A - LIST OF APPEARANCES

For Metacre Ltd

Mr Roger Lancaster of Counsel, instructed by de Pol Associates Ltd, 44 Garstang Road, Preston, PR1 1NA. He called:

Raymond P Gemmell, BSc (Hons), PhD, CBIOL, MIBIOL, MLA (Land Science), Consultant Ecologist, ERAP Limited

Andrew Edward Moore, MICE, F Geol Soc, CEng, CGeol, Associate Director, WSP Environment and Energy

Julian Cooper, BSc (Hons), DipLD, FLI, Managing Director, Cooper Partnership

Ian Hughes, BEng (Hons), PGDip, MCIHT, Associate, WSP Development and Transportation

Tony Lloyd, BSc (Hons), PhD, MIPSS, CScientist, Associate, ADAS Peter Brett Associates

Anthony Evans, HND Agriculture, BIAC, Partner, The Andersons Centre

Alexis De Pol, BA (Hons), DiPTP, MRTPI, Senior Planner, De Pol Associates Limited

For the Local Planning Authority

Mr Alan Evans of Counsel, instructed by the Borough Solicitor, Fylde Borough Council. He called:

David Rawle, BSc, MRICS, Associate, Capita Symonds

Mike Palmer, BSc, MSc, Environmental Consultant, Soil Environmental Services Ltd

Stephen Ottewell, BA (Hons), MSc, MRTPI, Principal Planning Consultant, Urban Vision Partnership Ltd

For the interested parties

For the Wesham Action Group and for David Pickervance – Mrs Andrea Galbraith, BSc (Hons), MPhil, PGDip Purchasing and Supply, MCIPS gave evidence and called:

Bryce Galbraith, BEng (Hons), IEng, MIET

David Rowe

Terry Blackburn, BSc (Hons), HND Ecology and Conservation Management

Richard Crayston, BSc Agric, MBPR, Agronomist, County Crops

Graham Surtees, BSc, MBIAC, Graham Surtees Associates Ltd

Helen Forrester, BSc Agric, Policy Adviser, Environment and Land Use, National Farmers' Union

David Pickervance, Tenant Farmer of part of the appeal site

Councillor Alan Clayton, Chairman, Medlar-with-Wesham, Town Council

Councillor Linda Nulty, Borough Council Member for Medlar-with-Wesham

Councillor Martin Howarth, Town Council Member for Wesham

Councillor Heather Speak, Borough Council Member

Councillor Elizabeth Oades, Kirkham Town Councillor and County Councillor for Kirkham and Wesham

For the CPRE Fylde District Group, John Westmoreland

Elizabeth Pickervance, member of the farming partnership which farms part of the appeal site

Richard Lee, local resident

Gary Courtenay, local resident

Gerald Bilsborrow, local resident

Richard Nulty, local resident

Lorna Fleetwood, local resident

Pat Banks, local resident

John Smith, local resident

Henry Smith, local resident

Martin Evans, local resident

Elaine Bradley, local resident

Fred Moor, former Parks Superintendent and later Director of Tourism and Leisure with the Borough Council

APPENDIX B – LIST OF DOCUMENTS

Core Documents

Application 08/1072 Submissions

- | | |
|------|--|
| CD1 | Site Location Plan drawing 1028.10 |
| CD2 | Development Framework Plan drawing 1028.20 rev A |
| CD3 | Design & Access Statement, De Pol Associates Ltd, December 2008 |
| CD4 | Transport Assessment, WSP, November 2008 |
| CD5 | Travel Plan Framework, November 2008 |
| CD6 | Stage 1 Road Safety Audit with Design Team Response, WSP, March 2009 |
| CD7 | Addendum Transport Report in response to LCC Highway Comments, WSP, July 2009 |
| CD8 | Sustainability Statement and Comparison Study, WSP, October 2008 |
| CD9 | Ecological Assessment of the Land and the Adjacent Biological Heritage Site including mitigation proposals for residential development and proposals for the incorporation of beneficial biodiversity, ERAP, December 2008 |
| CD10 | Report of the 2009 GCN Surveys, ERAP, July 2009 |
| CD11 | Provisional Method Statement for Mitigation of GCN, ERAP, November 2009 |
| CD12 | Report of the May 2009 Water Vole Survey, ERAP, July 2009 |
| CD13 | Bat Survey of Buildings and Land, Martin Prescott Environmental Services, February 2009 |
| CD14 | Report of the 2009 Licensed Bat Surveys, ERAP, July 2009 |
| CD15 | Landscape & Visual Assessment, Cooper Partnership, December 2008 |
| CD16 | Flood Risk Assessment, WSP, November 2008 |

Amended / Updated Plans and Surveys

- | | |
|------|---|
| CD17 | Amended Illustrative Layout (drawing. 1107:L9) |
| CD18 | Fleetwood Road Access, Pedestrian Crossing and Roundabout |

Improvements (Fig IH7)

- CD19 Mowbreck Lane Access Junctions (Fig IH8)
- CD20 Report of the Water Vole Survey of May 2010, ERAP, May 2010
- CD21 Report of the 2010 GCN and Associated Amphibian Surveys of the Ponds and Ditches at Wesham Marsh and in the Surrounding Area, ERAP, July 2010
- CD22 Tables of results of the Breeding Birds Surveys of Wesham Marsh and its Surroundings in 2010, ERAP

Committee Report

- CD23 Fylde Borough Council Development Control Committee Meeting Agenda and Committee Report on the appeal application, 17th March 2010
- CD24 Fylde Borough Council Development Control Committee Meeting Late Observations, 17th March 2010

Planning Policy

- CD25 DCLG letter and Guidance Note entitled 'Revocation of Regional Strategies' dated 6th July 2010
- CD26 Fylde Borough Local Plan (As Altered) together with proposals map, Oct 2005
- CD26A Fylde Borough Local Plan (As Altered) Proposals Map
- CD27 Directions under Paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 relating to Fylde Borough Local Plan dated September 2007 and October 2008
- CD28 Table 7.1 of the North West of England Plan: Regional Spatial Strategy 2003 - 2021 (RSS)
- CD29 RSS (2003-2021) Option 1 Housing Figures, provided by 4NW, July 2010
- CD30 RSS (2003-2021) EIP Panel Report, May 2007
- CD31 Fylde Borough Council Interim Housing Policy, April 2008
- CD32 Fylde Borough Local Plan (1996-2006) Inspector's Report, May 2002
- CD33 Agenda, Report and Minutes of Fylde Borough Council's Special Council Meeting on 5th August 2010

Housing

- CD34 Fylde Borough Council Strategic Housing Land Availability Assessment (SHLAA) consultation draft, February 2010
- CD35 Fylde Borough Council updated SHLAA housing tables for base date of 31st March 2010
- CD36 2010 Housing Land Availability Schedule, Fylde Borough Council
- CD37 Fylde Coast Housing Strategy 2009
- CD38 Fylde Coast Housing Strategy 2009 Evidence Base, December 2009
- CD39 Fylde Coast Strategic Housing Market Assessment, April 2008
- CD40 Fylde Borough Council Housing Needs and Demand Study Update 2007, Fordham Research, January 2008

Section 78 Appeal Decisions

- CD41 Section 78 Appeal Decision by Secretary of State relating to land South of Queensway, St Annes. PINS Ref. APP/M2325/A/09/2103453.
- CD42 Inspector's report regarding section 78 appeal relating to land South of Queensway, St Annes. PINS Ref. APP/M2325/A/09/2103453
- CD43 Section 78 Appeal Decision relating to Hollywood Nurseries, Whitehill Road, Peel. PINS Ref. APP/M2325/A/08/2087698

Highways

- CD44 Extracts from Department for Communities and Local Government and Department for Transport document 'Manual for Streets' (2007)
- CD45 Extracts from Guidance on Transport Assessment (2007)
- CD46 Institute for Highways & Transportation guidelines for 'Planning for Public Transport in Developments'
- CD47 Extracts from the Design Manual for Roads and Bridges
- CD48 Department of Transport Design Guidelines

Landscape

- CD49 Guidelines for Landscape and Visual Assessment LI/IEMA 2002

CD50 Natural England/ SNH guidance documents on landscape character assessment

Agriculture

- CD51 Agricultural Land Classification of England and Wales: Revised guidelines and criteria for grading the quality of agricultural land, MAFF, October 1988
- CD52 The Agricultural Budgeting and Costing Book May 2010
- CD53 H M Government Publication, Food 2030: How we get there
- CD54 Department of the Environment, Food and Rural Affairs (2006) Local Sites: Guidance on their Identification, Selection and Management, Defra, London

Ecology

- CD55 Council Directive 92/43/EEC of 21 May 1982 on the Conservation of Natural Habitats and of Wild Fauna and Flora Office for Official Publications of the European Communities
- CD56 English Nature (2001) Great Crested Newt Mitigation Guidelines English Nature, Peterborough
- CD57 English Nature (2002) English Nature Research Report 575 An Evaluation of the Effectiveness of Great Crested Newt (*Triturus cristatus*) Mitigation Projects in England, 1990-2001 English Nature, Peterborough
- CD58 English Nature (2002/2003) English Nature Research Report 576 An Assessment of the Efficiency of Capture Techniques and the Value of Different Habitats for the Great Crested Newt (*Triturus cristatus*) English Nature, Peterborough
- CD59 Halliday, G, & Malloch (A) (1981) Wild Flowers: Their Habitats in Britain and Northern Europe Eurobrook Limited
- CD60 Joint Nature Conservation Committee (1993) Handbook for Phase 1 Habitat Survey: A Technique for Environmental Audit JNCC, Peterborough
- CD61 Joint Nature Conservation Committee (2007) JNCC New Priority List of Species and Habitats JNCC, Peterborough
- CD62 Lancashire County Council (1990) Landscape and Wildlife Strategy for Lancashire, Lancashire County Council Planning Department, Preston
- CD63 Lancashire County Council, Lancashire Wildlife Trust and English Nature (February 1998 and Updated August 2003): Lancashire County Heritage Sites Scheme: Biological

Heritage Sites: Guidelines for Site Selection Lancashire County Council, Preston

- CD64 Langton, T., Beckett, C., & Foster, J. for Froglife, (2001) Great Crested Newt Conservation Handbook Froglife, Halesworth, Suffolk
- CD65 Nature Conservancy Council (1989) Guidelines for Selection of Biological SSSIs Nature Conservancy Council, Peterborough
- CD66 Norman, David on behalf of CAWOS Birds in Cheshire: A Breeding and Wintering Atlas Liverpool University Press, Liverpool
- CD67 Office of the Deputy Prime Minister, Defra & English Nature (March 2006) Planning for Biodiversity and Geological Conservation – A Guide to Good Practice
- CD68 Office of the Deputy Prime Minister Circular 06/2005 & Defra Circular 01/2005) Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System (August 2005)
- CD69 Ratcliffe, D (Ed.). (1977) A Nature Conservation Review: The Selection of Biological Sites of National Importance to Nature Conservation in Britain Volumes 1 & 2 Cambridge University Press, Cambridge
- CD70 Rodwell, J. S. (Ed.) (1991) British Plant Communities Volume 1: Woodlands and Scrub Cambridge University Press, Cambridge
- CD71 Rodwell, J. S. (Ed.) (1991) British Plant Communities Volume 2: Mires and Heaths Cambridge University Press, Cambridge
- CD72 Rodwell, J. S. (Ed.) (1992) British Plant Communities Volume 3: Grasslands and Montane Communities Cambridge University Press, Cambridge
- CD73 Rodwell, J. S. (Ed.) (1995) British Plant Communities Volume 4: Aquatic Communities, Swamps and Tall-herb Fens Cambridge University Press, Cambridge
- CD74 Rodwell, J. S. (Ed.) (2000) British Plant Communities Volume 5: Maritime Communities and Vegetation of Open Habitats Cambridge University Press, Cambridge
- CD75 Statutory Instrument: 1994 No. 2716 Wildlife Countryside: The Conservation (Natural Habitats, &c.) Regulations 1994 HMSO, London
- CD76 Strachan, R. (1998) Water Vole Conservation Handbook

Wildlife Conservation Research Unit, University of Oxford

- CD77 Strachan, R. & Moorhouse, T. (2006) Water Vole Conservation Handbook Second Edition Wildlife Conservation Research Unit, University of Oxford
- CD78 Wildlife and Countryside Act (1981) (as amended) HMSO, London
- CD79 Safeguarding our Soils A Strategy for England Defra 2009
- CD80 Agricultural Land Classification Natural England Technical Information Note 049, January 2009
- CD81 Disability Discrimination Act 2005
- CD82 Extracts from Road Safety Good Practice Guidance Department for Transport
- CD83 Inclusive Mobility

Inquiry Documents

Appellants' Documents

- APP/0/1 Statement of Common Ground between the Appellants and the Local Planning Authority (see also Document LPA/0/4)
- APP/0/2 Position Statement on Transport Matters between the Appellants and Lancashire County Council
- APP/0/3 Extract from Open Source Planning Policy Green Paper No 14, the Conservative Party 2010
- APP/0/4 Comments of Lancashire County Ecologist on the 2010 updated ecological reports
- APP/0/5 Comments of the Environment Agency on the 2010 updated ecological reports
- APP/0/6 Letter confirming the matters dealt with in the Stage 1 Road Safety Audit of the highway works proposed by the scheme
- APP/0/7 Autotrack assessments of articulated vehicle turning manoeuvres at the Mowbreck Lane/Park Lane junction
- APP/0/8 Clarification note following query from Mr Henry Smith regarding the volume of water to be discharged by the proposed attenuation pond to the local ditch system
- APP/0/9 Executed Unilateral Undertaking dated 10 September 2010
- APP/0/10 Possible additional condition to be imposed if a Great Crested

	Newt mitigation strategy is considered necessary
APP/0/11	Closing submissions on behalf of the Appellants
APP/1/S	Summary proof of evidence of Dr Raymond Paul Gemmell
APP/1/P	Proof of evidence of Dr Raymond Paul Gemmell
APP/1/A	Appendices to the proof of evidence of Dr Raymond Paul Gemmell
APP/2/S	Summary proof of evidence of Andrew Edward Moore
APP/2/P	Proof of evidence of Andrew Edward Moore
APP/3/S	Summary proof of evidence of Julian Cooper
APP/3/P	Proof of evidence of Julian Cooper
APP/4/S	Summary proof of evidence of Ian Hughes
APP/4/P	Proof of evidence of Ian Hughes
APP/5/S	Summary proof of evidence of Dr Tony Lloyd
APP/5/P	Proof of evidence of Dr Tony Lloyd
APP/5/A	Appendices to the proof of evidence of Dr Tony Lloyd
APP/5/E	Errata sheet for Dr Tony Lloyd's evidence
APP/6/S	Summary proof of evidence of Tony Evans
APP/6/P	Proof of evidence of Tony Evans
APP/6/A	Appendices to the proof of evidence of Tony Evans
APP/7/S	Summary proof of evidence of Alexis De Pol
APP/7/P	Proof of evidence of Alexis De Pol
APP/7/A	Appendices to the proof of evidence of Alexis De Pol

Local Planning Authority's Documents

LPA/0/1	Appeal Decision, APP/M2325/A/10/2119536, Land at Ballam Road, Lytham St Annes
LPA/0/2	Strategic Housing Land Availability Assessment – Maps of Definitive Sites – Base Date 31 March 2009
LPA/0/3	Strategic Housing Land Availability Assessment – Proformas – Base Date 31 March 2009

REPORT TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT – APP/M2325/A/10/2127459

- LPA/0/4 Agreed variation to the suggested conditions contained in the Statement of Common Ground (Document APP/0/1)
- LPA/0/5 Closing submissions on behalf of Flyde Borough Council
- LPA/0/6 Site notice and notice to neighbours of the appeal and the inquiry
- LPA/1/P Proof of evidence of David Rawle
- LPA/1/1 Alternative budget estimates produced by Mr Rawle
- LPA/2/P Proof of evidence of Mike Palmer
- LPA/3/S Summary proof of evidence of Stephen Ottewell
- LPA/3/P Proof of evidence of Stephen Ottewell
- LPA/3/A Appendices to the proof of evidence of Stephen Ottewell
- LPA/3/R Rebuttal proof of evidence of Stephen Ottewell

Wesham Action Group's Documents

- WAG/0/1 History of the Wesham Action Group
- WAG/0/2 Extract from the Fylde Coast Strategic Housing Market Assessment Final Report, April 2008
- WAG/0/3 Fylde Coast Strategic Housing Market Assessment – Summary, April 2008
- WAG/0/4 Closing submissions on behalf of the Wesham Action Group and David Pickervance
- WAG/1/S Summary proof of evidence of Bryce Galbraith on highways
- WAG/1/P Proof of evidence of Bryce Galbraith on highways
- WAG/1/R Rebuttal proof of evidence of Bryce Galbraith on highways
- WAG/2/P Proof of evidence of Nigel Bradley (evidence actually given by Terry Blackburn)
- WAG/3/S Summary proof of evidence of Deborah Edwards (evidence actually given by David Rowe)
- WAG/3/P Proof of evidence of Deborah Edwards (evidence actually given by David Rowe)
- WAG/3/R Rebuttal proof of evidence of David Rowe
- WAG/4/S Summary proof of evidence of Andrea Galbraith

REPORT TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT – APP/M2325/A/10/2127459

- WAG/4/P Proof of evidence of Andrea Galbraith
- WAG/4/R Rebuttal proof of evidence of Andrea Galbraith
- WAG/5/S Summary proof of evidence of Bryce Galbraith on infrastructure
- WAG/5/P Proof of evidence of Bryce Galbraith on infrastructure
- WAG/5/R Rebuttal proof of evidence of Bryce Galbraith on infrastructure
- WAG/6/P Letter used as proof of evidence by Helen Forrester
- WAG/7/P Proof of evidence of David Pickervance
- WAG/7/A1 Photographs showing crop diversity at Mowbreck Hall Farm
- WAG/7/A2 Individual filed records 2000 to 2009
- WAG/7/A3 Alternative winter diets
- WAG/7/A4 Map showing Mowbreck Hall Farm holdings in the area of the appeal site, drainage and other features

Documents submitted by Interested Parties

- IP/1 Proof of evidence of Richard Lee
- IP/2 Proof of evidence of Elizabeth Pickervance
- IP/3 Proof of evidence of Gary Courtenay
- IP/4 Proof of evidence of Gerald Bilsborrow
- IP/5 Proof of evidence of Councillor Martin Howarth
- IP/6 Proof of evidence of Richard Nulty
- IP/6/A1 Medlar-with-Wesham Parish Plan 2008
- IP/7 Proof of evidence of Lorna Fleetwood
- IP/8 Proof of evidence of Pat Banks
- IP/8/A1 Photographs showing parking in Mowbreck Lane
- IP/9 Proof of evidence of John Smith
- IP/10 Proof of evidence of Henry Smith
- IP/10/A1 Query regarding hydrology evidence of Mr Andrew Moore
- IP/11 Proof of evidence of Elaine Bradley

IP/12	Proof of evidence of John Westmoreland, CPRE Fylde
IP/12/A1	Landscape Character Assessment prepared by CPRE Fylde
IP/13	Proof of evidence of Councillor Alan Clayton
IP/13/A1	Detailed objection of Medlar-with-Wesham Town Council
IP/14	Proof of evidence of Terry Blackburn in relation to his personal objection
IP/15	Proof of evidence of Councillor Linda Nulty
IP/15/A1	Statement of clarification submitted by Councillor Linda Nulty
IP/15/A2	Report to Fylde Borough Council 26 July 2010 re Community Governance Review
IP/15/A3	Minutes of the meeting of Fylde Borough Council held on 26 July 2010
IP/16	Proof of evidence of Councillor Heather Speak
IP/17	Proof of evidence of Fred Moor
IP/18	Proof of evidence of Councillor Elizabeth Oades

APPENDIX C – RECOMMENDED CONDITIONS

Time Limit

1. In the case of any 'Reserved Matter', application for approval shall be made not later than the expiration of three years beginning with the date of this permission, and the development shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. Before any works are commenced on site, details of the reserved matters, namely appearance, landscaping, layout and scale, shall be submitted to and approved in writing by the Local Planning Authority and the development thereafter carried out in accordance with such approval.

Reason: The application was submitted in outline in accordance with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 as amended.

Scope of Development

3. The details submitted in accordance with condition 2 above shall include details of all existing and proposed levels across the site and finished ground floor levels of all buildings. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the development is undertaken in a satisfactory manner.

4. The development on this site shall be carried out in substantial accordance with the parameters included in the submitted Development Framework Plan 1028.20.

Reason: To ensure the development is in general accordance with the details submitted and considered in the approval of the outline planning permission.

5. The reserved matters shall include dwellings in a range of scales and designs with no dwelling or residential building exceeding 3 storeys in height.

Reason: To ensure that the development hereby approved is of an appropriate scale for the surrounding area as required by PPS3 and Policy HL2 of the Fylde Borough Local Plan.

6. No works shall take place on the site until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site and to comply with saved Policy EP21 of the Fylde Borough Local Plan.

7. Prior to the commencement of construction of any dwelling hereby approved, a satisfactory programmed landscaping scheme for the area of residential development including hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented during the first planting season following the completion of development, and any tree or shrub planted which dies or is felled, uprooted, wilfully damaged or destroyed in the first five year period commencing with the date of planting shall be replaced by the applicants or their successors in title.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with saved Policy EP14 of the Fylde Borough Local Plan.

Ecology Issues

8. The reserved matters application shall retain all existing lengths of hedgerow within the proposed residential development area except for where their removal is required for the formation of access points or visibility splays or in other limited circumstances where an equivalent or greater length or hedge is provided as a replacement and has been previously agreed in writing by the Local Planning Authority. No removal, relaying or works to existing hedgerows shall be carried out between March and August inclusive in any one year unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect habitats which have the potential to support breeding birds.

9. Prior to the commencement of development, full detailed habitat creation and management plans including details of mitigation and compensation measures, the management of public access, and on-going monitoring regimes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be phased, implemented and monitored in accordance with the approved details.

Reason: In order to secure adequate compensatory and mitigation habitat and species in the proposed Biodiversity Area to address potential impacts on protected species or the adjacent Biological Heritage Site.

10. The development hereby approved shall be implemented in full accordance with the bat mitigation steps outlined in section 5 of the ERAP Bat Survey ref 2008_089 dated July 2009 (or any replacement survey that is undertaken and subsequently approved by the Local Planning Authority should the development not be implemented within 12 months of the date of the existing survey).

Reason: To safeguard the population of bats during development as they are a protected species in accordance with Policy EP19 of the Fylde Borough Local Plan.

11. The development hereby approved shall be implemented in full accordance with the Great Crested Newt protection and mitigation steps outlined in section E of the ERAP Ecological Survey and Assessment ref 2008_089 dated November 2009 or any alternative habitat mitigation as agreed as part of the details submitted under condition 9.

Reason: To safeguard the population of Great Crested Newts during development as they are a protected species in accordance with Policy EP19 of the Fylde Borough Local Plan.

Flood Risk & Drainage

- 12.No development approved by this permission shall be commenced until a surface water drainage strategy (including attenuating surface discharges from the development to existing 'greenfield rates' and the protection of the integrity of the wetland habitat of the Wesham Marsh BHS) has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be completed in accordance with the approved strategy.

Reason: To ensure that the development is properly drained without leading to any damage to the neighbouring wetland habitat and its ecological value as required by Policy EP17 and EP23 of the Fylde Borough Local Plan.

- 13.Prior to the commencement of the development hereby approved, full details of the means of surface water drainage of the residential development area shall be submitted to and approved in writing by the Local Planning Authority. This system shall not include any connections to the public foul sewer system and should it involve a Sustainable Urban Drainage System (SUDS) then details of the future management of the SUDS and a management company that will be established to oversee the maintenance of the drainage system shall form part of the submitted scheme. The approved works shall thereafter be implemented, fully commissioned and maintained on site during the development.

Reason: To ensure a satisfactory means of drainage is provided and that there is no increase in the volumes of surface water discharged from the site.

- 14.Prior to the commencement of the development hereby approved, full details of the means of foul water drainage of the residential development area shall be submitted to and approved in writing by the Local Planning Authority. This approved scheme shall be implemented during the development and shall include that the development is drained on a separate system with only foul drainage connected into the foul sewer.

Reason: To ensure that appropriate measures are taken to provide suitable drainage from the site as required by Policy EP25 of the Fylde Borough Local Plan.

Highways

- 15.Prior to any on site construction a Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include method and details of construction including vehicle routing to the site, construction traffic parking and any temporary traffic management measures, times of construction, access and deliveries. Such a Construction Plan shall

be implemented and adhered to during the construction of the development.

Reason: To maintain the safe operation of the pedestrian and highway network in the area during construction given the proximity to residential properties and a Primary School.

16. Prior to the first occupation of any dwelling hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This Travel Plan shall include objectives, targets, mechanism, links to the continuously monitored traffic data and measures to achieve targets, monitoring, and implementation timescales and provide for the appointment of a travel plan co-ordinator and links to site management. The approved plan shall be audited and updated at intervals as approved and the approved plan shall be carried out.

Reason: In order to promote the use of sustainable modes of transport by future residents of the development.

17. No part of the development hereby approved shall commence until a scheme for the provision of vehicular access from Fleetwood Road and Mowbreck Lane, based on submitted figures IH7 and IH8, and associated works, which includes phasing details, has been submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall commence until a scheme for the provision of junction improvements at the roundabout junction of the A585 and Fleetwood Road based on submitted figure IH7, which includes phasing details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme are acceptable before works commence on site.

18. No part of the development hereby approved shall be occupied until the approved scheme for the provision of vehicular access from Fleetwood Road and Mowbreck Lane, based on submitted figures IH7 and IH8, has been constructed and completed in accordance with the approved scheme details. No part of the development hereby approved shall be occupied until the approved scheme for the provision of junction improvements at the roundabout junction of the A585 and Fleetwood Road, based on submitted figure IH7, has been constructed and completed in accordance with the approved scheme details.

Reason: In order that traffic generated by the development may safely access and egress the development without adverse impact on the roundabout junction of the A585 and Fleetwood Road.

- 19.No part of the development hereby approved shall commence until a scheme for the provision and/or upgrading of bus stops and bus shelters from Fleetwood Road and Mowbreck Lane, based on figure IH13 has been submitted to and approved in writing by the Local Planning Authority.

Reason: To promote the use of public transport by residents of the development.

- 20.Following construction of the internal spine road connecting Fleetwood Road and Mowbreck Lane and associated development phases, no further phase of the development hereby approved shall be occupied until the approved scheme for the provision and/or upgrading of bus stops and bus shelters on Fleetwood Road and Mowbreck Lane, based on figure IH13, has been constructed and completed in accordance with the approved details.

Reason: To promote the use of public transport by residents of the development.

- 21.No part of the development hereby approved shall commence until a scheme for the provision of an illuminated sign at the junction of Weeton Road and Garstang Road North, based on figure IH9 has been submitted to and approved in writing by the Local Planning Authority.

Reason: To enhance road safety at this junction.

- 22.No part of the development hereby approved shall be occupied until the approved scheme for the provision of an illuminated sign at the junction of Weeton Road and Garstang Road North, based on figure IH9, has been constructed and completed in accordance with the approved scheme details.

Reason: To enhance road safety at this junction.

Public Open Space

- 23.The details submitted for approval of reserved matters shall include for the provision and maintenance of public open space in accordance with the standards set out in policy TREC 17 of the Fylde Borough Local Plan, As Altered October 2005. The on-site provision of public open space shall include a Locally Equipped Area for Play which shall be constructed and made available for use no later than the occupation of the 100th dwelling and retained thereafter.

Reason: In order to secure the provision of public open space in accordance with Development Plan policy.

Sustainability/Contamination

24. Prior to the commencement of development, details of a scheme of on site renewable energy production shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme prior to each respective property first becoming occupied.

Reason: In order to secure on site renewable energy in accordance with national planning policy.

25. Prior to the commencement of development or site clearance works, a construction methodology identifying measures to prevent the pollution of local ground and surface water and air pollution during construction shall be submitted to and approved in writing by the Local Planning Authority. All construction works shall be carried out in accordance with the approved scheme.

Reason: In order to prevent pollution of ground and surface water.

26. No part of the development hereby approved shall be commenced on site unless and until:

- a. A desktop study has been undertaken to identify all previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced and submitted to the Local Planning Authority.
- b. A site investigation has been designed for the site using the information obtained from 'a' above. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site.
- c. The site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority.
- d. A method statement and remediation strategy, based on the information obtained from 'c' above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority.

The development shall only then proceed and in strict accordance with the measures approved. Work shall be carried out and completed in accordance with the approved method statement and remediation strategy referred to in 'd' above, and to the agreed timescale.

If, during development, contamination not previously identified is found to be present on site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written

approval from the Local Planning Authority for an addendum or addenda to the method statement and remediation strategy. This addendum/addenda to the method statement must detail how this unsuspected contamination is to be dealt with.

Upon completion of the remediation detailed in the method statement and remediation strategy a report shall be submitted to the Local Planning Authority providing verification that the required works regarding contamination have been carried out in accordance with the approved method statement and remediation strategy. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring, sampling and reporting shall be carried out in accordance with the detailed findings of the report.

Reason: To provide an appropriate level of protection against the potential for future occupiers of the dwellings to be affected by pollution or contamination.

APPENDIX D – ABBREVIATIONS

ABC	The Agricultural Budgeting and Costing Book
ALC	The Agricultural Land Classification for England and Wales
BAP	The UK Biodiversity Action Plan
BHS	The Wesham Marsh Biological Heritage Site
BMV land	Best and most versatile agricultural land (that within grades 1, 2 and 3a under the ALC)
CLGGN	The Guidance Note issued by the Department of Communities and Local Government on the revocation of the RSS
CS	The emerging Core Strategy DPD for Fylde
Dpa	Dwellings constructed per year
DPD	Development Plan Document
EA	Environment Agency
FBLP	The Fylde Borough Local Plan (As Altered)
FRA	Flood Risk Assessment
GCN	Great Crested Newt

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IHP	The Interim Housing Policy
JST	The joint statement on transport matters made between the Appellants and the County Council
LDF	Local Development Framework
LI/IEMA	Landscape Institute/Institute of Environmental Management and Assessment
RSS	The former Regional Spatial Strategy for the North West
SADPD	The emerging Site Allocations Development Plan Document
SCG	The statement of common ground made between the Appellants and the Council
SHLAA	The Strategic Housing Land Availability Assessment
SUDS	Sustainable Urban Drainage System
The Appellants	Metacre Ltd
The Council	Fylde Borough Council
The County Council	Lancashire County Council
The Option 1 Figure	The figure put forward by the Council at the examination in public of the RSS for the future level of housing provision needed in their area
WAG	The Wesham Action Group